

STATE OF INDIANA

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INDIANA UTILITY REGULATORY COMMISSION

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IN THE MATTER OF THE PETITION OF INDIANA)
BELL TELEPHONE COMPANY, INCORPORATED,)
D/B/A AMERITECH INDIANA PURSUANT TO)
I.C. 8-1-2-61 FOR A THREE-PHASE PROCESS FOR)
COMMISSION REVIEW OF VARIOUS SUBMISSIONS)
OF AMERITECH INDIANA TO SHOW COMPLIANCE)
WITH SECTION 271(C) OF THE TELECOMMUNI-)
CATIONS ACT OF 1996.)

INDIANA UTILITY
REGULATORY COMMISSION
CAUSE NO. 41657

**INITIAL COMMENTS OF WORLDCOM, INC. ON
AMERITECH INDIANA'S DRAFT SECTION 271 APPLICATION**

Deborah Kuhn
WorldCom, Inc.
205 N. Michigan Ave., 11th Floor
Chicago, Illinois 60601
(312) 260-3326

Robert Johnson
BOSE, McKINNEY & EVANS
135 North Pennsylvania Street
First Indiana Plaza, Suite 2700
Indianapolis, Indiana 46204
(317) 684-5246

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**INITIAL COMMENTS OF WORLDCOM, INC. ON
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WorldCom, Inc., on behalf of its CLEC and reseller affiliates, hereby tenders its Initial Comments¹ on Ameritech Indiana's Draft Section 271 Application.

INTRODUCTION

The Indiana Utility Regulatory Commission ("Commission") finds itself at a critical crossroads as competition in the state telecommunications market struggles to emerge. Six years after passage of the Telecommunications Act of 1996, once bright prospects for a competitive telecommunications market are beginning to fade. Yet, SBC-Ameritech's monopoly continues to expand and gain strength. The combined SBC-Ameritech enterprise continues to enjoy monopoly control over more than 90% of the customers it reaches. It has now become evident, indeed painfully so for much of the

¹ WorldCom reserves its right to file revised and/or additional affidavits as this proceeding progresses, and to supplement these Initial Comments in the future. The Commission's October 31, 2002 Process Order in this Cause indicated that the parties would have such a right following the submission of the OSS test report, and also stated that the parties were entitled to serve discovery in this proceeding. (*See* Process Order at 13). WorldCom has already served several sets of data requests upon Ameritech Indiana, and, as discussed below, Ameritech Indiana's responses contained a considerable number of objections. WorldCom is working to resolve these disputes with Ameritech Indiana informally before resorting to seeking resolution through formal means. The right to supplement the developing record, only in its infancy, is particularly important given that the Commission has not yet ordered a process for the further progress of this case.

CLEC industry, that the Act's incentives for SBC-Ameritech to open its markets to competition are barely adequate for the task.

As summarized herein, and as detailed in WorldCom's accompanying affidavits,² SBC-Ameritech continues to fight against the establishment of appropriate cost-based rates for unbundled network elements ("UNEs"), the implementation of the Commission's October 16, 2002 remedy plan, and is lobbying heavily against the continued availability of the UNE-Platform ("UNE-P"), the predominant form of competitive local entry. It refuses to provide CLECs with nondiscriminatory access to UNEs and continues to fail OSS tests. It subjects its retail and wholesale customers to abysmal service quality. It fights against the creation of any financial remedies designed to give it an incentive to provide nondiscriminatory access to UNEs or to improve service quality. The list could go on, but the point is painfully clear: even though Ameritech Indiana pays lip service to the notion of an Indiana market "fully and irreversibly" open to competition, without final, non-appealable cost-based rates for UNEs, nondiscriminatory access to those elements, and meaningful financial remedy payments to provide proper incentives, Ameritech Indiana will continue to thwart competition at every turn, even as it attempts to push through its premature 271 application. If this Commission wishes to ensure that Indiana consumers will reap the benefits that telecommunications competition can deliver, it must make sure that competition is given a chance to develop. Six years after the Act, meaningful, much less "irreversible" competition is overdue.

² WorldCom's responses to both Ameritech Indiana's September 26th and November 18th submissions are encompassed in this brief and the accompany affidavits.

Per the Commission's October 31, 2002 Process Order, WorldCom has deferred its discussion of the pricing at issue in the pending TELRIC proceeding, IURC Cause No. 40611-S1, to a later date to be determined by the Commission. For now, WorldCom simply notes that until that proceeding closes with a final non-appealable order, and actual compliance by Ameritech Indiana with that order, Ameritech Indiana will not be able to establish compliance with TELRIC pricing for UNEs, which is an issue under Checklist Item 2.

Before getting to WorldCom's specific comments, it is useful to provide some overarching legal precepts that impact on this proceeding:

Purpose of Section 271

- Local exchange markets are historic monopolies in which the incumbents have bottleneck control of the local network, and BOCs have no natural incentive to assist new entrants to compete in providing local service absent Section 271 review.³
- CLECs' entry into local markets is handicapped by their dependence on BOC cooperation, whereas BOCs will be able quickly and easily to enter the intensely competitive long distance market.⁴

Open Local Markets

- The FCC "must make certain that the BOCs have taken real, significant, and irreversible steps to open their markets" before authorizing their entry into in-region long distance.⁵
- Per the Department of Justice, BOC section 271 applications "should be granted only when the local markets in a state have been fully and irreversibly opened to competition."⁶

³ Memorandum Opinion and Order, *In the Matter of Application of Ameritech Michigan Pursuant to Section 271 of the Communications Act of 1934, as amended, to Provide In-Region, InterLATA Services in Michigan*, CC Docket No. 97-137 (Rel. Aug. 19, 1997) ("MI Order") at ¶¶ 10-14.

⁴ MI Order at ¶ 17.

⁵ MI Order at ¶ 18.

⁶ United States Department of Justice Evaluation, *In re Section 271 Application of Bell South Corporation et al. for Provision of In-Region, InterLATA Services in Louisiana* ("DOJ La. I Eval."), CC Docket No. 97-231 (Dec. 10, 1997) ("La. I") at iii, 1-2; United States Department of Justice Evaluation, *In re Second Section 271 Application of Bell South Corporation et al. for Provision of In-Region, InterLATA Services in Louisiana* ("DOJ La. II Eval."), CC Docket No. 98-121 (Aug. 19, 1998) ("La. II") at 1.

Burden of Proof

- The BOC carries the burden of proof to demonstrate that it has satisfied all requirements of Section 271. Opponents may produce evidence and arguments showing why the requirements of section 271 are not met, but the ultimate burden of proof remains on the BOC, and the “preponderance of evidence” standard applies.⁷

- A BOC’s promises of future compliance carry “no probative value” as to present compliance with Section 271, and “paper promises” cannot satisfy the BOC’s burden of proof, as the BOC decides when to file and must be in full compliance at that time.⁸

- It is insufficient that a BOC prove compliance with the requirements of the Act at the time of its Section 271 application. Instead, it is essential that it can be relied upon to remain in compliance.⁹

As discussed herein and in WorldCom’s accompanying affidavits, Ameritech

Indiana fails to qualify at this time for 271 approval. This filing emphasizes failures with respect to Checklist items 2, 4, 5, 6, 7, 10 and public interest factors.

⁷ TX Order at ¶¶ 49-50; NY Order at ¶¶ 49-50; La. II Order at ¶¶ 51-59; Federal Communications Commission Memorandum Opinion and Order, *In re Application of Verizon New York, Inc., Verizon Long Distance, Verizon Enterprise Solutions, Verizon Global Networks Inc., and Verizon Select Services Inc., for Authorization to Provide In-Region, InterLATA Services in Connecticut*, CC Docket No. 01-100 (rel. July 20, 2001) (“CT Order”) at App. D., ¶ 5.

⁸ MI Order at ¶¶ 55-59; *In re Section 271 Application of Bell Atlantic New York to Provide In-Region, InterLATA Service in the State of New York*, CC Docket No. 99-295, 15 F.C.C.R. 3953 (Dec. 22, 1999), *aff’d*, *AT&T Corp. v. FCC*, 220 F.3d 607 (D.C. Cir. 2000) (“NY Order”) at ¶ 37; Federal Communications Commission Memorandum Opinion and Order, *In re Section 271 Application of SBC Texas to Provide In-Region, InterLATA Services in Texas*, CC Docket No. 00-65, FCC No. 00-238 (rel. June 30, 2000) (“TX Order”) at ¶ 38; Federal Communications Commission Memorandum Opinion and Order, *In re Section 271 Application of BellSouth Corporation to Provide In-Region, InterLATA Services in South Carolina*, CC Docket No. 97-208, (Dec. 24, 1997), *aff’d*, *BellSouth Corp. v. FCC*, 162 F.3d 678 (D.C. Cir. 1998) (“SC Order”) at ¶ 38.

⁹ TX Order at ¶ 7, NY Order at ¶ 16, MI Order at ¶ 22, DOJ La. I Eval. at 91.

EXECUTIVE SUMMARY**Checklist Item 2 (Access to Network Elements, Including Non-Discriminatory Access to OSS)**

A critical aspect of compliance with Checklist Item 2 has to do with whether Ameritech Indiana provides non-discriminatory access to its operational support systems, or “OSS.” Although the Indiana OSS test is still ongoing, it is apparent that Ameritech Indiana’s OSS are functioning poorly. WorldCom affiant Sherry Lichtenberg describes some of the problems that WorldCom continues to experience with Ameritech Indiana due to these failures.

For example, Ameritech’s high level of manual handling of WorldCom’s orders results in Ameritech implementing the wrong features on WorldCom orders. This issue recently impacted all WorldCom orders submitted between November 11 and November 15, 2002, and resulted in Call Forwarding Numbers being provisioned to the wrong number, precluding the receipt of voice mail messages by WorldCom customers (for orders submitted during this time frame). Ameritech’s high reliance upon manual handling may also contribute to the level of missing service order completion notices from Ameritech and to flow through failures.

Lack of proper line loss notifications is another unresolved problem. Unless Ameritech provides a line loss notification to WorldCom when a WorldCom customer chooses another local carrier, WorldCom has no notice that its customer has switched carriers and will continue to send bills to the customer (until the angry customer contacts WorldCom to notify WorldCom that the customer has changed carriers). Conversely, when Ameritech improperly sends a line loss notification to WorldCom when the customer in fact still is a WorldCom local customer, WorldCom will cease billing the

customer (thus losing revenue), and if the customer calls in to request modifications to his or her service, WorldCom cannot make such modifications because its records indicate that the customer is not a WorldCom customer. Despite years of effort, these issues are not yet resolved, and WorldCom and Ameritech are in the process of trying to reconcile situations where Ameritech says it previously sent a line loss to WorldCom (but where WorldCom has no record of ever having received a line loss) and where Ameritech previously sent a line loss (but where Ameritech now says that the customer is still a WorldCom customer).

Checklist Item 2 (Access to Network Elements, Including Non-Discriminatory Access to OSS), Checklist Item 4 (Access to Loops) and Public Interest

WorldCom affiant Sherry Lichtenberg also addresses Ameritech Indiana's compliance with its obligations to permit competitors to engage in line splitting. Ameritech also lacks appropriate OSS to allow line splitting over UNE-P. Ameritech utterly refuses to provide line splitting over UNE-P, resulting in over 400 Indiana customers this year being unable to migrate their voice service to WorldCom because they also had DSL service on their line. Instead of provisioning these voice service migration orders, Ameritech rejects them. Ameritech also boasts to the financial community that where there is DSL data on the line, it is 75% less likely that the customer will switch to another carrier for local voice service. Thus, rather than opening the local market to competition, Ameritech would rather restrict customer choice and obtain the financial benefits to it that result from denying customers the ability to migrate to a CLEC for voice.

Checklist Item 5 (Unbundled Local Transport)

Approximately two months ago, the FCC levied a record \$6 million fine against SBC/Ameritech for its willful failure to provide shared transport throughout the Ameritech region, as required by the SBC/Ameritech Merger conditions. Ameritech has failed to meet its obligations under Checklist Item 5.

Checklist Item 6 (Unbundled Local Switching) and Checklist Item 7 (Access to Directory Assistance and Operator Services)

WorldCom affiant Edward Caputo addresses Ameritech Indiana's non-compliance with its obligations under Checklist Items 6 and 7 as they relate to the provision of Operator Services/Directory Assistance ("OS/DA"). Ameritech fails to provide customized routing of OS/DA calls placed by WorldCom's customers, and therefore fails to comply with Checklist Items 6 and 7. The Commission should ensure that Ameritech Indiana provides OS/DA at TELRIC rates until it successfully implements WorldCom's requested mode of customized OS/DA routing.

Checklist Item 7 (Access to Directory Assistance Services) and Checklist Item 10 (Access to Databases and Associated Signaling)

WorldCom affiant Michael Lehmkuhl identifies how Ameritech Indiana's failure to provide access to the Directory Assistance Listing database precludes its ability to demonstrate compliance with Checklist Items 7 and 10. Ameritech fails to provision Directory Assistance Listings (DAL) appropriately. Ameritech imposes unlawful restrictions on the appropriate usage of DAL information. Also, because DAL is a UNE, it must be provisioned nondiscriminatorily at cost-based TELRIC rates. Instead, Ameritech charges "market-based" rates that are artificially derived and far in excess of cost-based rates.

Ameritech Indiana also fails to comply with the requirements of Checklist Item 10 with respect as to how it provisions the Calling Name (“CNAM”) and Line Information (“LIDB”) databases. Ameritech fails to provide CNAM in a batch download form, as opposed to a per-query access. Per query access is not economically reasonable and thus Ameritech in Indiana is effectively refusing to provide an economical method for CLECs to use the CNAM database, even though Ameritech provides the CNAM batch download in Michigan as a result of orders issued in the Michigan 271 docket. Accordingly, since CNAM is a UNE, and Ameritech refuses to make this UNE available in an economically usable manner and format, Ameritech has failed the Checklist Item 10 in this regard.

Ameritech also fails to provide appropriate CNAM updates to its own systems. This results in problems for customers who have switched to a CLEC from Ameritech. For example, when these former Ameritech customers call an Ameritech local customer, the caller ID with name display may be wrong, such as showing the name of a funeral home as being the caller instead of the travel agency making the call. This results in the CLEC customer (e.g., the travel agency) blaming the CLEC for the errant caller ID message, even though the problem is with Ameritech failing to take proactive steps to correct systemic problems with its databases.

Ameritech also fails to provide nondiscriminatory access to Ameritech’s LIDB, which is used for validating calling cards, collect call and third party call information. Ameritech improperly restricts the CLECs’ use of LIDB for local calls, while in most cases a CLEC would want to use LIDB to validate non-local calls. In short, even though LIDB is a UNE, Ameritech refuses to treat LIDB as a UNE. Further, Ameritech has apparently now outsourced its LIDB to one of its affiliates, SNET DG, which apparently

wants to charge a rate approximately triple the TELRIC rate for use of the LIDB.

Accordingly, by stealth, Ameritech is seeking to totally eliminate the use of LIDB as a UNE, and appears to be attempting to no longer offer the LIDB at TELRIC rates.

Public Interest Requirement

WorldCom affiant Joan Campion describes how Ameritech has continued to attempt to thwart congressional intent, choosing to pay fines rather than truly endeavoring to open the local market to competition. Also, Ameritech appeals orders in virtually every case where it does not like the pro-competitive result. Its efforts in this regard create uncertainty as to what the prices and rules are or will be in effect in Indiana. Ameritech's actions have also resulted in uncertainty as to whether or to what extent a remedy plan will remain in place in Indiana. Further, Ameritech's track record in delaying proper implementation of TELRIC costing orders creates much uncertainty as to when CLECs will see the effective implementation of Indiana orders in the presently pending TELRIC cost case.

There is also a low level of competition in Indiana. Further, the little competition that is present is due to UNE-P. Yet, Ameritech is trying its best to eliminate UNE-P as a mode of provisioning service. Thus, its present filing to show that the market is open to competition is based on a mode of service that Ameritech is seeking to extinguish. Ameritech should not be allowed to advance its cause in the present docket (which is based on UNE-P being available) while it advocates for the elimination of UNE-P and seeks in various appeals to overturn positive actions of this Commission that have begun to crack the door open to competition in Indiana.

DISCUSSION

Ameritech Has Effectively Impeded the Development of Local Competition In Indiana

Although Ameritech Indiana's revised draft brief in support of its Section 271 application boldly pronounces that "[t]his application reflects the successful efforts by Ameritech Indiana and the Indiana Utility Regulatory Commission ("IURC") to open the local market to competition" (see September 26th Draft Brief at i), Ameritech's control of bottleneck facilities has been a long-standing policy concern to this Commission. Because access to Ameritech's network facilities is necessary for CLECs to provide local voice and data services, Ameritech has both the incentive and the ability to discriminate in favor of its retail service by charging competitors excessive, anti-competitive rates for leasing those critical network facilities and by providing competitors lower quality access than it provides itself.¹⁰

Any assumption that the prospect of obtaining long distance entry would encourage SBC-Ameritech to comply with the local market-opening requirements of the 1996 Act has been shattered by its conduct over the course of the last six years. Instead, Ameritech has engaged in a relentless campaign to resist those requirements. Indeed, SBC-Ameritech has challenged virtually every important rule promulgated by the Federal Communications Commission ("FCC") to implement them. And when its scorched earth litigation tactics have failed, Ameritech has foreclosed competition by providing

¹⁰ Memorandum Op. and Order, *Applications of Ameritech Corp., and SBC Communications Inc., For Consent to Transfer Control of Corporations Holding Commission Licenses and Lines Pursuant to Sections 214 and 310(d) of the Communications Act and Parts 5, 22, 24, 25, 63, 90, 95 and 101 of the Commission's Rules*, 14 FCC Rcd. 14712, ¶ 107 (1999) ("SBC-Ameritech Merger Order"). See also R. Burns, et al., *Market Analyses of Public Utilities: The Now and Future Role of State Commissions*, 9 (National Regulatory Research Institute July, 1999) (describing how incumbent monopolists can use control of network facilities to give "preferential treatment [to] affiliates or discriminate against affiliates' competitors").

Ameritech Has Impeded the Development of Local Competition – Public Interest Issue

competitors with inadequate and discriminatory access to its network facilities. As a result, there is little local competition in the states in the SBC-Ameritech region, including the state of Indiana. This lack of competition imposes enormous costs on consumers, who have no alternative but to purchase local phone service from Ameritech.

Recent developments have only served to accentuate the need to protect the competitive process and the public interest against monopoly abuses by SBC-Ameritech. This is a critical time for local competition. At the same time Ameritech continues to reap handsome profits, many new competitive providers have been pushed into or are on the verge of bankruptcy. As a result, if local markets are not soon opened to competition, it may never develop. This means not only that consumers will have no choice for traditional local voice services, but also the even more serious prospect of the monopolization of the next generation of advanced telecommunications services, which likewise are presently dependent upon access to Ameritech's network.

Ameritech Continues To Thwart Congressional Intent

In the Telecommunications Act of 1996 (“TA96”), Congress amended the Communications Act of 1934 to provide a “pro-competitive, de-regulatory national policy framework designed to accelerate rapidly” the opening of “all telecommunications markets to competition.”¹¹ However, Congress recognized, at least in the near term, that it was impossible for new entrant competitive providers to duplicate the incumbent LECs’ ubiquitous local networks. Thus, in section 251(c) of the Act, 47 U.S.C. § 251(c), Congress mandated that those carriers lease the piece-parts of their networks (called “unbundled network elements” or “UNEs”) to competitive providers at efficient, cost-based rates and on non-discriminatory terms and conditions. In this way, competitive providers would be able to use incumbent networks to provide retail services in competition with the incumbent LECs to provide not only traditional voice services, but also advanced, high-speed broadband services.

Congress recognized that this regime had little chance of succeeding unless the largest incumbent LECs – the Bell operating companies (“BOCs”), including Ameritech – were given an incentive to cooperate. Congress knew that the BOCs would be loath to make their network facilities available to competitors on reasonable and efficient terms because such cooperation would result in effective competition for local telephone services – competition that would end the BOCs’ ability to earn supra-competitive rates for their services and to leverage their control over traditional voice services into emerging markets for advanced services. Accordingly, Congress held out a carrot to the BOCs that complied with the 1996 Act’s mandates. Pursuant to section 271 of the

¹¹ H.R. Conf. Rep. No. 104-458 (1996).

Communications Act, 47 U.S.C. § 271, BOCs that fully and irreversibly open their local markets to competition are permitted to enter the long distance market.

Unfortunately, little local competition has emerged to date. Ameritech and the other BOCs have apparently found the ability to enter the vigorously competitive long distance market an insufficient incentive to truly surrender their local monopolies, and instead have engaged in a dual-pronged approach of zealously pursuing Section 271 approvals in states where the local phone markets can hardly be deemed “open” to competition, while simultaneously pursuing a relentless campaign of non-cooperation and litigation. Indeed, SBC-Ameritech has found it an acceptable cost of doing business to pay tens of millions of dollars in penalties to the FCC for failing to meet various conditions agreed to in the FCC’s Merger Order. In October 2002, the FCC levied a record \$6 million forfeiture against SBC for its willful failure to comply with the SBC/Ameritech merger conditions relating to the provision of shared transport.¹² In a separate statement, FCC Chairman Michael Powell stated that he fully supported this forfeiture, “the highest in the history of the Commission,” “which penalizes SBC for serious violations of our local competition rules.” Chairman Powell noted that the merger conditions became the law, and that “SBC then went out and broke the law in five different states¹³ by failing to provide shared transport to its competitors. Such unlawful, anti-competitive behavior is unacceptable. Instead of sharing, as the law requires, SBC

¹² See Forfeiture Order, *In the Matter of SBC Communications, Inc., Apparent Liability for Forfeiture*, FCC 02-282, File No. EB-01-IH-0030, rel. October 9, 2002, copy available on-line at http://www.fcc.gov/Daily_Releases/Daily_Business/2002/db1010/FCC-02-282A1.doc.

¹³ These five states are the Ameritech states, which include Indiana.

withheld and litigated, forcing competitors to expend valuable time and resources to exercise their rights under the FCC's order.”¹⁴

As the FCC has observed, the BOCs, “which are both competitors and suppliers to new entrants, have strong economic incentive to preserve their traditional monopolies over local telephone service and to resist the introduction of competition that is required by the 1996 Act.”¹⁵ “If [Ameritech] can provide its products to others at higher rates than it charges itself, or at lower quality, then it creates a similar margin that it can exploit by raising prices in the downstream market.”¹⁶ BOCs can “raise entrants’ costs by charging high prices for interconnection, network elements and services, and by delaying the provisioning of, and degrading the quality of, the interconnection, services, and elements it provides.” *SBC-Ameritech Merger Order* ¶ 107 (also noting risk of “delay[ing] interconnection negotiations and resolution of interconnection disputes” and “limit[ing] both the methods and points of interconnection and the facilities and services to which entrants are provided access”).

Ameritech has effectively used all these strategies to injure competitors in the retail local phone market.¹⁷ For example, SBC-Ameritech has challenged virtually every important rule promulgated by the FCC to open local markets to competition. In the appeal of the FCC’s landmark 1996 *Local Competition Order*¹⁸ the Regional Bell

¹⁴ See Press Statement of Chairman Michael K. Powell on SBC Forfeiture Order Released Today, October 9, 2002, copy available on-line at http://www.fcc.gov/Daily_Releases/Daily_Business/2002/db1010/DOC-227215A1.doc.

¹⁵ *SBC-Ameritech Merger Order* ¶ 107.

¹⁶ T. Brennan, *Why Regulated Firms Should Be Kept Out of Unregulated Markets: Understanding the Divestiture in United States v. AT&T*, 32 Antitrust Bulletin 741, 754 (1987).

¹⁷ The Association for Local Telecommunication Services has extensively detailed the numerous strategies universally employed by Ameritech and its sister BOCs to foreclose local telephone competition. A copy of this study is available at <http://www.alts.org/Filings/022001AnnualReport.pdf>.

¹⁸ First Report and Order, *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, 11 FCC Rcd. 15499 (1996) (“*Local Competition Order*”)

Operating Companies and GTE asked the Eighth Circuit to vacate the *entire* order.¹⁹ It is only due to the U.S. Supreme Court's recent decision in *Verizon Communications, Inc. et al. v. Federal Communications Commission, et al.*, 535 US 467, 122 S.Ct. 1646, (May 13, 2002) that SBC-Ameritech can no longer challenge the FCC's forward-looking pricing methodology and claim that network element rates should be based on actual or embedded costs. Faced with this dead-end, SBC-Ameritech has launched an all-out assault on the regulations that put TELRIC pricing into place, hoping to remove UNEs vital to competition, such as switching, as well as the UNE-P from the list of UNEs that BOCs must provide to competitors.

Indeed, Ameritech has already been very aggressive – and successful – in preventing CLECs from using the UNE-P to provide local telephone services. The ability of CLECs to use combinations of UNEs to provide local telephone service is “integral to achieving Congress’ objective of promoting competition in the local telecommunications markets.”²⁰ As the FCC explained, “[u]sing combinations of unbundled network elements provides a competitor with the incentive and ability to package and market services in ways that differ from the BOCs’ existing service offerings in order to compete in the local telecommunications market.”²¹ The FCC has further emphasized that local markets cannot be considered irreversibly open to competition unless new entrants can purchase network element combinations.²²

¹⁹ See Brief for Petitioner Regional Bell Companies and GTE, No. 96-3221, at 80-81 (8th Cir. filed Nov. 18, 1996).

²⁰ Memorandum Op. & Order, *Applications of Bell Atlantic-New York Corporation for Authorization Under Section 271 of the Communications Act to To Provide In-Region, InterLATA Services in the State of New York*, 15 FCC Rcd. 3953, ¶ 230 (1999) (“Bell Atlantic New York 271 Order”).

²¹ *Id.*

²² *Id.* See also Memorandum Op. & Order, *BellSouth Corporation, et al., Pursuant to Section 271 of the Communications Act of 1934, As Amended, To Provide In-Region, InterLATA Services in South Carolina*, 13 FCC Rcd. 539, ¶ 195 (1997) (“BellSouth South Carolina 271 Order”); Memorandum Op. and Order,

Ameritech, however, has fought tooth-and-nail to block the availability of network element combinations to competitive providers. At various points in time, SBC and Ameritech simply refused to comply with the FCC rule mandating UNE combinations until it was ultimately upheld by the Supreme Court. After that setback, SBC-Ameritech switched course and argued that it should not be required to unbundle key network elements, such as transport and switching.²³ No legal trick has been missed; no delay has been avoided.

Application of Ameritech Michigan Pursuant to Section 271 of the Communications Act of 1934, As Amended, To Provide In-Region, InterLATA Services in Michigan, 12 FCC Rcd. 20543, ¶ 332 (1997).

²³ See Third Report and Order and Fourth Further Notice of Proposed Rulemaking, *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, 15 FCC Rcd. 3696, ¶¶ 243, 320 (1999).

Competition In Indiana Is Lagging

The above and other anticompetitive practices have succeeded in forestalling local competition in Indiana, and this is confirmed by the relevant evidence. The most recent market share data from the FCC shows that, six years after the 1996 Act, competitive LECs nationally serve only 11.4% of total switched access lines, and 7.8% of switched access residential and small business local telephone lines.²⁴ CLECs in Indiana serve only 7% of end-user switched access lines, markedly below the national average.²⁵ CLECs reported serving 21% of their switched access lines via resale (a decline from 43% in December 1999), and providing about 50% of switched access lines by means of leasing UNE loops, including the UNE-Platform (an increase from 24% in December 1999).²⁶ Thus, competition via the UNE-Platform has grown, and is the predominant form of local telephone competition. Thus, the best available evidence indicates that competitive providers in Indiana have been able to build their own facilities or use UNEs to serve only approximately 7% percent of the state's lines. And when Ameritech acts as a wholesaler (*i.e.*, when it resells service or leases facilities), traffic continues to be carried on its network and Ameritech continues to earn profits.

This lack of competition is confirmed by Ameritech's financial reports. Just prior to its merger with SBC, Ameritech reported "double-digit" earnings growth of 12%.²⁷ The merger of Ameritech and SBC has only increased the monopoly profits earned by these mega-incumbent LECs. SBC currently has a market capitalization of almost \$85.3

²⁴ See *Local Telephone Competition: Status as of June 30, 2002*, issued December 9, 2002 and prepared by the Industry Analysis and Technology Division of the FCC's Wireline Competition Bureau (December 2002) at "Summary Statistics" ("December 2002 Local Telephone Competition Report"), copy available on-line at http://www.fcc.gov/Bureaus/Common_Carrier/Reports/FCC-State_Link/IAD/lcom1202.pdf.

²⁵ See December 2002 Local Telephone Competition Report at Tables 6 and 7.

²⁶ See December 2002 Local Telephone Competition Report, Summary Statistics.

²⁷ 1997 Ameritech Corp. Annual Report, (January 1998).

billion.²⁸ At a September 23, 2002 Banc of America Securities Investment Conference, SBC's Chief Financial Officer, Randall Stephenson, informed investors that "this year we will throw off \$3 billion of cash flow after dividends. The real question is how do we use that cash?"

In stark contrast to SBC-Ameritech's dominant position, the CLEC industry now faces significant obstacles in raising the capital necessary to compete broadly with SBC-Ameritech and the other BOCs.²⁹ Competitive LECs have become "marginalized" because they do not "own the strategic assets" necessary to compete but must "rely on the ubiquitous Bell network" – a network that remains largely closed to new entrants.³⁰ More broadly, many "[i]nvestors [have] los[t] confidence in the fundamentals of the CLEC business model,"³¹ and "there has been 'carnage' among CLEC stocks."³² In

²⁸ See <http://finance.yahoo.com/q?s=sbc&d=c>.

²⁹ In no market segment is this trend more apparent, or has the descent into free fall been sharper, than among "data LECs" that sought to provide competitive DSL services. These former "stock market darlings" are now on the verge of extinction. See P. Goodman, *Verizon Terminates Deal to Buy Stake in NorthPoint*, Washington Post, at E9 (Nov. 30, 2000). Indeed, Verizon terminated its plans to buy NorthPoint Communications Group, citing "the rapid decline of its would-be partner's business" – "an enterprise in need of huge flows of cash to build its network, yet losing customers." *Id.* As a result, NorthPoint is bankrupt. Analysts likewise have concluded that the data LECs are "unequipped to compete with the giants of the industry" – the incumbent local carriers – who "have clearly captured the upper hand in the battle to roll out DSL service." See J. Hall, *NorthPoint's Stock Plunges After Verizon Nixes Deal*, Reuters (Nov. 30, 2000) (quoting Michael Bowen).

³⁰ J. Whitman, *New Entrants: Battling the Bells*, Wall Street Journal, at R17 (Sept. 18, 2000). See also B. Ploskina, *It's Open Season For CLEC Consolidators*, Interactive Week, at 16 (Oct. 9, 2000) (reporting that competitive LECs are "facing hard times" because they are forced to rely "on incumbent carriers").

³¹ M. Farrell, *ICG Tanks, Depressing Other CLECs*, Multichannel News (Oct. 2, 2000).

³² J. Mulqueen, *ICG Hit Hard by Revenue Shortfall, Resignations*, Interactive Week, at 12 (Sept. 25, 2000). See also *id.* ("Another piece of the crumbling new carrier industry has plummeted to the ground"). Indeed, numerous competitive LECs have filed (or are on the verge of filing) for bankruptcy. See *FBN Telecom Year In Review - 2*, Federal Filings Newswire (Jan. 2, 2001); S. Levine, *et al.*, *2001: We make Eight Predictions for the Year in Telecom*, America's Network, at 40 (Jan. 1, 2001); R. Fisher, *From the Desk of . . . Robert Fisher*, Communications Today (Dec. 22, 2000); P. Sherer, *Deals & Deal Makers: Too Much Telecom*, Wall Street Journal, at C1 (Aug. 15, 2000); J. St. Onge, *Amer MetroComm Asks to Abandon Cisco Gear It Calls Faulty*, Dow Jones News Service (Oct. 10, 2000); J. St. Onge, *A Bankruptcy Boom Is Starting To Have Ripple Effects*, Dow Jones News Service (Oct. 5, 2000); H. Draper, *ICG's Tumble A Wake-Up Call to Telecom Firms*, Denver Rocky Mountain News, at 1G (Sept. 24, 2000); J. Mulqueen, *Carrier's Purchasing Plans In Question*, Interactive Week, at 16 (Sep. 18, 2000); *Darwin Claims Another CLEC*, Communications Today (Oct. 4, 2000); J. Whitman, *McLeodUSA's CapRock Buy May Mark New Consolidation Round*, Dow Jones News Service (Oct. 3, 2000).

short, the hesitancy of the capital markets to fund competitive entry is *both* compelling evidence that SBC-Ameritech and the other BOCs have successfully kept their markets closed *and* is a signal to the Commission that it needs to act decisively to take the further action necessary to facilitate local competition that would enable competitive providers to raise the funds necessary to expand their networks and offer consumers throughout Indiana meaningful choice in local phone and data services, not to ram through premature approval of Ameritech Indiana's Section 271 application.

This is a critical transition time for local competition. The courts have now put to an end the BOCs' attempt to circumvent the 1996 Act and deny competitive LECs combinations of UNEs, the vehicle Congress intended to permit near-term competitive entry at the mass market level. At the same time, many CLECs have been pushed into or are on the verge of bankruptcy, and SBC-Ameritech and the other BOCs are lobbying the FCC heavily to take away the slight gains of the past six years by eliminating the most important UNEs, and the UNE-P, in the FCC's Triennial Review. As a result, UNE-based competition for residential consumers is both just emerging and very fragile. If SBC-Ameritech is able to obtain authorization to provide long distance service while continuing to pursue its efforts to block the emergence of UNE-based competition, it may never fully develop once SBC-Ameritech has established itself as the only carrier that can offer on a mass market basis a packaged offering of local and long distance voice and data services – especially as it signs up more and more customers to long-term contracts for DSL service.

Particularly in light of current market conditions, a competitive provider that “earns” a poor reputation for service because of discrimination by SBC-Ameritech may

never fully recover in the marketplace.³³ Similarly, SBC-Ameritech can further deter entry by establishing a reputation for willingness to engage in predatory conduct.³⁴ Indeed, as noted, SBC-Ameritech's trench warfare tactics have already resulted in many rivals having to rethink their attempts to serve residential customers.

³³ *UNE Remand Order* ¶ 87 (noting competitive LECs are at a reputational disadvantage because "competitive LECs must establish a brand name and develop a reputation for service quality before they can overcome the incumbents' long-standing relationships with their customers."); *SBC-Ameritech Merger Order* ¶ 237 (reputational harms inflicted by incumbent LECs limit the ability of competitive LECs to enter the local telephone services market). *See also* Complaint, Decision and Order, *In re Digital Equipment Corporation*, FTC Docket No. C-3818, 1998 FTC LEXIS 75 (July 14, 1998); Proposed Consent Order and Analysis to Aid Public Comment, 63 Fed. Reg. 24544 (May 4, 1998). *See generally* N. Stoll, *Current Developments in Federal Antitrust Enforcement: Solutions, Settlements and Surrender*, 795 PLI/Corp 413 (1992).

³⁴ *See* J. Ordover & C. Saloner, *Predation, Monopolization, and Antitrust*, in *Handbook of Industrial Organization* 550 (R. Schmalensee & R. Willig eds., 1989) (discussing the benefits derived by the dominant firm through its reputation earned due to its predatory pricing activities); G. Hay, *The Economics of Predatory Pricing*, 51 *Antitrust L.J.* 361, 365 (1982) (demonstrating predatory pricing based on the reputational effects of the dominant firm).

Ameritech Indiana's 271 Proceeding Is Premature Given the Status of Local Competition Within the State

Ameritech Indiana's Section 271 application is almost laughably premature. As the FCC's most recent local competition report reveals, ILECs control a staggering 93% of end-user switched access lines in the state, despite the fact that six years that have passed since the implementation of the Telecommunications Act of 1996.³⁵ WorldCom only recently made its foray into the local telephone market in Indiana (within the Ameritech footprint) in March of this year, with the rollout of its "The Neighborhood" product. Within a day of the revelation of WorldCom's accounting issues three months later, SBC had issued a press release seeking to capitalize upon WorldCom's troubles by announcing that it was expanding its customer service hours and was ready to assist consumers and businesses "affected by the on-going industry volatility" in switching their telephone service to the SBC family of companies. (See true and correct copy of June 26, 2002 SBC "Media Advisory" attached hereto as Exhibit 1).

When newspapers declined to run this "story" free of charge, SBC Ameritech resorted to placing what were undoubtedly expensive, nearly full-page advertisements in Sunday papers touting the same sentiments. (See true and correct copy of SBC-Ameritech's June 30, 2002 Chicago Tribune advertisement, Sec. 1, p. 17, attached hereto as Exhibit 2). Obviously, such moves indicate that while, in its draft 271 application, Ameritech pays lip service to opening the local market, SBC-Ameritech plainly intends to do anything it can to quash the nascent competition emerging in this state. Only three days after issuing its self-serving "Media Advisory," Ameritech Illinois President Carrie Hightman attempted to use the WorldCom accounting probe as a basis to rail against the

³⁵ December 2002 Local Telephone Competition Report, Table 6.

fundamentals of UNE-P, much as Verizon did in the wake of the September 11th tragedy.³⁶ Although AT&T has recently entered the Illinois market and announced plans to enter the local market in Ohio, it appears to have no plans for entry here. Several of the CLECs who once participated actively in proceedings before this Commission no longer existed when this Commission rendered its orders in those crucial proceedings. Others are emerging, at varying levels of success, from bankruptcy. Plainly, local competition is not nearly so robust and “irreversible” as Ameritech Indiana would have this Commission believe.

Ameritech Indiana's 271 Application is Premature Given the Status of Ameritech's Remedy Plan and UNE Pricing in Indiana

Ameritech Indiana's push for 271 approval is premature not only as relates to the state of local competition here, but also as judged by the uncertain status of the Indiana remedy plan and UNE cost proceedings, both of which play an integral role in the resolution of this checklist proceeding. These issues are discussed in the next two sections below.

³⁶ See June 29, 2002 e-prairie story at <http://www.eprairie.com/news/viewnews.asp?newsletterID=3914>. Clearly, the ILECs will stop at nothing to continue their fight against the unbundling of network elements at TELRIC-based rates.

Lack of Certainty as to Remedy Plan

As the Commission is aware, Ameritech Indiana filed both state and federal appeals of the Commission's October 16, 2002 remedy plan order in this Cause ("Remedy Plan Order").³⁷ Ameritech Indiana has asked the Commission to stay the Remedy Plan Order pending its ruling on Ameritech Indiana's petition for rehearing, and just last week moved the Commission to stay the remedy plan pending appeal, hinting that it will seek such a stay in court if the Commission refuses.³⁸ Ameritech Indiana has also asked the Commission to impose upon the CLEC community as Ameritech Indiana's Section 271 remedy plan either the Texas-style remedy plan already rejected by the Commission in its October 16, 2002 Order in this cause, or a privately-negotiated remedy plan interconnection agreement amendment between Ameritech Indiana and Time Warner Telecom upon non-participants to those negotiations.³⁹ WorldCom submits that it is wholly improper for Ameritech Indiana to attempt to evade the clear dictates of the Commission's order after two years of proceedings on the subject.

The application of legal standards regarding remedy plans in 271 proceedings shows that the present 271 application must be denied. For example,

•One factor that the FCC may consider as part of its public interest analysis is whether Ameritech would have adequate incentives to continue to satisfy the requirements of Section 271 after entering the long distance market.⁴⁰

³⁷ See *Indiana Bell Telephone Company, Inc. d/b/a Ameritech Indiana v. McCarty et al.*, Indiana Court of Appeals Case No. 93A02-0211-EX-950 and *Indiana Bell Telephone Company, Inc. v. Indiana Utility Regulatory Commission et al.*, U.S. District Court for the Southern District of Indiana, Indianapolis Division Civil Action No. 1:02-CV-1772-LJM.

³⁸ See Ameritech Indiana's November 6, 2002 Petitions for Rehearing and Stay, and its December 6, 2002 "Motion To Modify Order Adopting Performance Assurance and Remedy Plan by Staying Its Implementation Pending Judicial Review," all of which were filed in this Cause.

³⁹ See "Ameritech Indiana's Petition for Reconsideration of Order Adopting Performance Assurance and Remedy Plan," (November 4, 2002) at p. 3.

⁴⁰ Federal Communications Commission Memorandum Opinion and Order, *In re Application of Verizon Pennsylvania Inc., Verizon Long Distance, Verizon Enterprise Solutions, Verizon Global Networks Inc., and Verizon Select Services Inc. for Authorization to Provide In-Region, InterLATA Services in Pennsylvania*, CC Docket No. 01-138 (rel. Sept. 19, 2001) ("PA Order") at ¶ 127.

- The overriding goal in the public interest analysis is to ensure that nothing undermines the conclusion, suggested by checklist compliance, that the local market in Indiana is open.⁴¹

- One relevant factor is whether the FCC has sufficient assurance that the local market in Indiana will remain open after the Ameritech's Section 271 application is granted.⁴²

As addressed by WorldCom affiant Joan Campion and discussed further in the brief synopses of the affidavits below, given the uncertainty generated by Ameritech Indiana's flurry of motions and appeals on the remedy plan issue, the public interest does not favor granting 271 approval when Ameritech is relying on the remedy plan to show 271 compliance, but at the same time appears to be planning to totally circumvent the remedy plan.

⁴¹ Federal Communications Commission Memorandum Opinion and Order, *In re Section 271 Application of SBC Texas to Provide In-Region, InterLATA Services in Texas*, CC Docket No. 00-65, FCC No. 00-238 (rel. June 30, 2000) ("TX Order") at ¶ 417; *In re Section 271 Application of Bell Atlantic New York to Provide In-Region, InterLATA Service in the State of New York*, CC Docket No. 99-295, 15 F.C.C.R. 3953 (Dec. 22, 1999), *aff'd*, *AT&T Corp. v. FCC*, 220 F.3d 607 (D.C. Cir. 2000) ("NY Order") at ¶ 423; Federal Communications Commission Memorandum Opinion and Order, *In re Joint Application by SBC Communications Inc., Southwestern Bell Telephone Company, and Southwestern Bell Communications Services, Inc. d/b/a Southwestern Bell Long Distance for Provision of In-Region, InterLATA Services in Kansas and Oklahoma*, CC Docket No. 00-217 (rel. Jan. 22, 2001), *petition for review filed*, *Sprint Communications Co. v. FCC*, No. 01-1076 (D.C. Cir. filed Feb. 16, 2001) ("KS-OK Order") at ¶ 267; PA Order at App. C, ¶ 71; Federal Communications Commission Memorandum Opinion and Order, *In re Application by Verizon New England Inc., Bell Atlantic Communications, Inc. (d/b/a Verizon Long Distance), NYNEX Long Distance Company (d/b/a Verizon Enterprise Solutions), Verizon Global Networks Inc., and Verizon Select Services Inc., for Authorization to Provide In-Region, InterLATA Services in Vermont*, CC Docket No. 02-7 (rel. Apr. 17, 2001) ("VT Order") at ¶ 61; Federal Communications Commission Memorandum Opinion and Order, *In re Application of Verizon New England, Inc., Bell Atlantic Communications, Inc. (d/b/a Verizon Long Distance), NYNEX Long Distance Company (d/b/a Verizon Enterprise Solutions) and Verizon Global Networks, Inc., for Authorization to Provide In-Region, InterLATA Services in Massachusetts*, CC Docket No. 01-9 (rel. Apr. 16, 2001), *petition for review filed*, *WorldCom Inc. v. FCC*, No. 01-1198 (D.C. Cir. filed Apr. 25, 2001) ("MA Order") at ¶ 233.

⁴² KS-OK Order at ¶ 267; MA Order at ¶ 233.

Lack of Certainty as to UNE Pricing

Ameritech Indiana's draft 271 application is also woefully deficient on the issue of UNE pricing, and per the Commission's October 16, 2002 Process Order in this Cause, WorldCom will defer its specific comments on UNE pricing until after the Commission issues its order in Phase II of Cause No. 40611-S1. Aside from the issue of the particular TELRIC rates to be set in this state and whether Ameritech Indiana has properly implemented them, however, is a larger public interest issue occasioned by the uncertainty surrounding UNE rates generally.

The Commission is well aware that Ameritech Indiana has appealed the UNE pricing decisions that came out of the first phase of Cause No. 40611-S1. The parties are still awaiting the Commission's order in Phase II of that proceeding, which will address the availability and pricing for various UNEs with enormous competitive import, including the unbundling of Project Pronto, loop conditioning (and qualification), line sharing and line splitting, subloops, the engineer controlled splice ("ECS"), CNAM access and OS/DA branding. Even after that order issues, Ameritech Indiana will have to make a voluminous compliance filing, and will likely appeal, and these subsequent proceedings will take additional time. For example, compliance proceedings relating to the analogous Wisconsin UNE pricing order in PSCW Docket No. 6720-TI-161 have been ongoing since March 22, 2002.

Based upon the CLECs' experiences with the compliance filing in Wisconsin, there will be multiple problems with the rates Ameritech has proposed based upon its -- unique -- interpretation of the Commission's Phase II Order. Conservatively, given the experiences in other Ameritech states (as recognized in the UNE Order), there are likely

months of negotiations, if not formal proceedings, ahead before the parties and Staff can fully analyze and resolve issues contained in Ameritech's compliance submissions. The Commission must then approve a final tariff. Furthermore, given that Ameritech has appealed virtually every aspect of the Phase I order, and undoubtedly will do the same when the Phase II order issues, an additional level of uncertainty about when the rates arising from the UNE docket will actually be available to CLECs has fallen over this proceeding. It is inconceivable that Ameritech can satisfy Checklist Item 2 or the public interest requirement without final, non-appealable UNE pricing in place.

The application of legal standards clearly shows that the uncertainty of UNE pricing precludes a successful 271 application. For example,

- The overriding goal in the public interest analysis is to ensure that nothing undermines the conclusion, suggested by checklist compliance, that the local market in Indiana is open.⁴³
- One relevant factor is whether the FCC has sufficient assurance that the local market in Indiana will remain open after the Ameritech's Section 271 application is granted.⁴⁴
- Permitting Ameritech Indiana to base its Section 271 application on uncertain TELRIC rates would be contrary to the public interest.⁴⁵
- Uncertain TELRIC rates reduces the amount of local competition in Indiana as possible entrants are hindered in developing a business plan if they do not know what their costs will be. This leads to a conclusion that the local market in Indiana is not fully and irreversibly open to competition.

Given the status of these two critical companion dockets, it is evident that Ameritech Indiana's 271 application is premature, and cannot move forward to any significant degree without finality in both the remedy plan and UNE cases. For Ameritech to propose that this Commission address its draft application now –

⁴³ TX Order at ¶ 417; NY Order at ¶ 423; KS-OK Order at ¶ 267; PA Order at App. C, ¶ 71; VT Order at ¶ 61; MA Order at ¶ 233.

⁴⁴ KS-OK Order at ¶ 267; MA Order at ¶ 233.

⁴⁵ La. II Order at ¶ 362 (permitting case-by-case analysis of public interest requirement).

**Lack of Certainty as to UNE Pricing – Checklist Item 2 (Access to Network Elements) and
Public Interest Issue**

particularly on the overzealous, rapid-speed schedule it has proposed – is akin to a mechanic hurriedly checking out a used car one is contemplating buying and saying that “the car looks good, except that I haven’t started the engine or taken it for a test drive yet, but go ahead and consider that it has ‘passed,’ subject to starting the engine and passing the test drive.” No good mechanic would proceed in this fashion, and neither should this Commission, especially on an issue of such magnitude for not only the parties in this proceeding, but for the Indiana public.

Ameritech Indiana's Discovery Compliance

Before addressing the specifics of Ameritech Indiana's checklist compliance, WorldCom believes it is important to inform the Commission that disputes have already arisen regarding Ameritech Indiana's compliance to date with its discovery obligations in this proceeding. In granting discovery rights in this Cause, the Commission recognized that the bulk of the information relating to Ameritech Indiana's compliance or non-compliance with its Section 271 obligations is in Ameritech Indiana's possession.

WorldCom is in the process of attempting to resolve its differences with Ameritech Indiana regarding Ameritech Indiana's refusal to answer many of WorldCom's data requests, and WorldCom will be forced to file a motion to compel to obtain certain necessary information. For the time being, WorldCom simply brings to the Commission's attention that this issue is an ongoing one. Ameritech Indiana's conduct regarding discovery in this proceeding will speak volumes about its true intentions to meet its obligations to competitors, both in this proceeding, and overall.

Ameritech Indiana's Draft Application Fails to Satisfy the 14-Point Checklist

Although Ameritech Indiana claims that its draft 271 application demonstrates its compliance with the 14-point checklist set forth at § 271(c)(2)(B)(i)-(xiv), such is not the case. WorldCom is filing along with these Initial Comments four initial affidavits that begin to outline for this Commission some of the checklist items that Ameritech Indiana cannot meet. As referenced above, WorldCom reserves its rights to update these affidavits and to file additional affidavits once the process for the rest of this proceeding has been determined, discovery has been completed, and more facts are available for incorporation into the record (particularly given WorldCom's recent entry into the local market here).

Sherry Lichtenberg addresses a variety of OSS issues and explains why Ameritech's systems are still woefully flawed, thereby impeding WorldCom's efforts to compete effectively and economically in the local telephone market. Specifically, Ms. Lichtenberg addresses problems with service provisioning errors, line loss notification problems, missing service order completion notices, order flow-through errors, and access to UNE-P line sharing/line-splitting (relevant to Checklist Items 2 (UNE Access), 4 (Local Loops) and Public Interest).

Edward Caputo focuses on the unavailability of custom routing of OS/DA traffic as requested by WorldCom and required by the FCC (relevant to Checklist Items 6 (Unbundled Switching) and 7 (911, Operator Services/Directory Assistance)).

Michael Lehmkuhl discusses the lack of nondiscriminatory access to Ameritech's Directory Assistance Listing (DAL) and Customer Name (CNAM) databases. Mr. Lehmkuhl also addresses the availability of the CNAM database on a

Ameritech Indiana's 271 Application Fails to Satisfy the 14-Point Checklist

batch download basis, as well as the difficulty of obtaining accurate CNAM updates.

Finally, Mr. Lehmkuhl discusses the lack of nondiscriminatory access to the Line Information Database (LIDB) (relevant to Checklist Items 7 (911, Operator Services/Directory Assistance) and 10 (Databases and Associated Signaling)).

Joan Campion discusses the public interest requirement generally, including SBC's recent full-fledged campaign against the availability of the UNE-P and Ameritech's obstinate refusal to properly implement Commission-ordered pricing decisions throughout the Ameritech region. Ms. Campion also makes recommendations to this Commission about capping UNE rates for a five-year period and requiring Ameritech Indiana to cease its campaign of appeals designed to impede the CLECs' meaningful access to UNEs at just and reasonable rates as part of this proceeding (relevant to Checklist Item 2 (UNE Access) and Public Interest).

WorldCom may also supplement the current affidavits and/or file affidavits from other individuals relative to additional failures on Ameritech Indiana's part to meet checklist items as more data is generated as a result of its local launch. Ameritech should not be able to evade scrutiny simply because not enough time has passed to identify trends of problems that may be occurring given that WorldCom has only been in the local service market a short time.

Together, the affidavits filed concurrently with these Initial Comments highlight major impediments to Ameritech Indiana's compliance with the Section 271 checklist. The Commission should review the affidavits in their entirety, as the discussion below merely briefly highlights some, while not all, of the issues enumerated in those affidavits.

Checklist Item 2: Non-Discriminatory Access to OSS - Lichtenberg Affidavit

• **Service Provisioning Errors**

WorldCom continues to identify problems with customer orders that are completed incorrectly. These include feature problems associated with SBC/Ameritech's implementation of the wrong universal service order codes (USOCs) in its back end service order provisioning systems and problems associated with errors in blocking options. Discussions with SBC/Ameritech personnel have revealed that these problems continue to be the result of manual handling in the SBC/Ameritech service centers.

SBC/Ameritech's OSS systems seem particularly prone to errors when a software upgrade or other change is made to the systems, suggesting that OSS development and testing process approved in the Texas and other SWBT state Section 271 applications is not working effectively.

SBC/Ameritech informed CLECs on November 20, 2002, that all orders requiring Call Forwarding Numbers (CFNs) provisioned between November 11 and November 15, 2002 were assigned an incorrect "forward to" number.⁴⁶ This means that every Neighborhood customer whose order was completed during this period had his/her messages diverted to another telephone number rather than to his/her own voice mailbox. These calls and messages were lost, causing significant customer problems. SBC/Ameritech stated in Accessible Letter CLECAM02-508 that the root cause of this problem was an error in passing data from one system to another, claiming that "[t]he CFN was incorrectly generated on some orders for UNE-P because the CFN was not

⁴⁶ See SBC/Ameritech Accessible Letter CLECAM02-508, issued November 20, 2002 and attached as Exhibit 1 to the affidavit of Sherry Lichtenberg.

being passed correctly from one system to another. As the error was in a backend process, this impacted LSRs regardless of the LSOR version of the PON.”⁴⁷

The Accessible Letter further notes that SBC/Ameritech wanted to “advise its CLEC customers of this issue so that they would be in a position to appropriately respond to questions from their end users.”⁴⁸ Ameritech has clearly improved in alerting CLECs to problems caused by errors in their OSS systems but this notification does not provide CLECs with the numbers of orders impacted, the date on which each was corrected, and the corrective action SBC/Ameritech will take going forward to ensure that such problems do not continue. And it certainly does not answer the customer’s most common complaint: “Where did my calls go?”

These kinds of problems are particularly damaging to new entrants, because they impact the customer’s first experience with their new provider, and can cause a customer to leave a competitor before it has even had an opportunity to provide an alternative to the monopoly service offered by Ameritech Indiana. Accurate provisioning is critical to CLEC customers, particularly when it impacts that customer’s ability to receive calls and voice messages. SBC/Ameritech must put fixes in place to ensure that problems such as this one do not continue before CLECs can be assured of an adequate opportunity to compete.

⁴⁷ Id.

⁴⁸ Id.

• **Line Loss Problems**

Despite on-going proceedings across its region, Ameritech seems to be unable to correct its continuing line loss problems. During the line loss workshop in March 2002, SBC/Ameritech committed to work with interested CLECs to reconcile its listing of CLEC customers to the CLEC's own listing of its customers due to the significant errors in the SBC/Ameritech line loss process. SBC/Ameritech agreed to review its databases (including MOR, ACIS, and the actual switch provisioning records) to determine which customers belonged to which CLECs. This reconciliation process was requested by CLECs and necessitated by SBC/Ameritech's numerous software, hardware and manual errors uncovered at SBC/Ameritech that resulted in missing line loss notifications, line loss notifications sent in error and discrepancies between SBC/Ameritech's internal data bases.

Former Accounts for Which Ameritech Failed to Transmit Line Loss Notifications

Some progress has been made on the reconciliation of the WorldCom database with the corresponding SBC/Ameritech database showing which lines SBC/Ameritech thinks belong to WorldCom, but further work remains to be done. After meeting with SBC/Ameritech, WorldCom has discovered that it will need to remove 8,160 lines from its internal database (554 of which were for Indiana customers) because SBC/Ameritech failed to send a line loss for these accounts. Prior to the disclosure that SBC/Ameritech had failed to send the appropriate line loss notifications, and prior to the reconciliation effort, WorldCom continued to bill these 8,160 former customers because WorldCom had not received line loss notification from SBC/Ameritech. The Commission can imagine how damaging this continued billing was to WorldCom's reputation as a new entrant.

Current Accounts for Which Ameritech Erroneously Sent Line Loss Notifications

Additionally, the reconciliation has shown that WorldCom will need to reactivate billing to end users for 1,521 lines for which SBC/Ameritech had previously erroneously submitted a line loss (24 of which were for Indiana customers). These customers have not been billed since the erroneous line loss was received and may have had problems in obtaining service and support, since WorldCom's records (based on SBC/Ameritech's line loss transactions) showed that the customer had left WorldCom for another carrier.

WorldCom will request a second snapshot from SBC/Ameritech for lines in the Ameritech region as of November 30, 2002, or December 31, 2002, depending upon when a further analysis of the first reconciliation between WorldCom and Ameritech has been completed. WorldCom will again compare this snapshot to what the WorldCom records show regarding which lines should be WorldCom lines as of that date. We are hopeful that the discrepancies found in the second round of reconciliation will be minimal, restoring our faith in the line loss process. Given the on-going problems with the line loss process, this hope may prove to be false.

Unfortunately, despite this reconciliation effort and Ameritech's stated focus on improving the line loss process, the Company still appears to be unable to deliver timely and accurate line losses on an on-going basis. On November 12, 2002, SBC/Ameritech announced still another line loss problem to CLECs. According to Accessible Letter CLECAM02-122, "EDI mapping errors that resulted from the expansion of the length of the ECCKT field" caused Line Loss Notifications to be sent to CLECs without an effective date.⁴⁹ Since the effective date is one of the two most critical parts of the line

⁴⁹ See SBC/Ameritech Accessible Letter CLECAM02-122, issued November 12, 2002 and attached as Exhibit 2 of the affidavit of Sherry Lichtenberg.

Checklist Item 2 – Non-Discriminatory Access to OSS -- Line Loss Problems

loss notification (the first being the telephone number), this error rendered 100% of the line losses sent to CLECs between November 11 and November 13, 2002 useless.

As instructed in the Accessible letter, WorldCom immediately contacted its Account Manager to have these line losses reflowed with the effective date populated correctly. Ameritech agreed to do so, but, unfortunately, reflowed the same truncated records, again rendering them useless. Only with the second reflow was Ameritech able to correctly populate this field.

Because SBC/Ameritech appears unable to completely eliminate the manual handling that results in a failure to transmit line losses to CLECs, SBC/Ameritech has put additional manual processes in place to capture and resend these losses on a manual basis. This has resulted in SBC/Ameritech sending CLECs emails of missing line loss notifiers that cannot be handled within the standard electronic processes. These emailed notifications are sent sporadically and do not include any indication of the reason for the fallout from electronic processing. The CLEC must address each of these notifiers separately and manually insert them into their systems. WorldCom's process for the receipt and treatment of line losses is fully automated. Manual losses require additional work on our part and should be eliminated.

As this Commission is aware, line losses are a critical part of ensuring that consumers are not double billed for their services. Missing or incorrect line losses result in consumers continuing to be billed for CLEC service after those customers have migrated to another carrier or returned to SBC/Ameritech. Line losses sent for customers who have not left a carrier result in that carrier's inability to respond to customer queries or issues regarding that service. This Commission must not give Ameritech Indiana a

Checklist Item 2 – Non-Discriminatory Access to OSS -- Line Loss Problems

positive recommendation on its application for long distance authority until it shows that it can manage the line loss process over the long term, because Ameritech's ongoing failures demonstrate that Ameritech Indiana has not fulfilled its obligations under Checklist Item 2, relating to the provision of unbundled network elements. The problems with the line loss process must not be allowed to continue, and the only way to compel SBC/Ameritech to take the actions necessary to rectify the problem is to withhold 271 authority until the issues are resolved.

- **Missing Service Order Completion Notices (SOCs)**

WorldCom began experiencing missing Service Order Completions (SOCs) soon after service was launched in Michigan and Illinois. This problem has continued in Indiana, albeit at a lower level. SBC/Ameritech's on-going problems with late or missing completion notices requires WorldCom to track missing completion notices on an on-going basis and open trouble tickets with SBC/Ameritech to attempt to locate the missing notifiers. The root cause of the problem is Ameritech's high reliance on manual processing in its work centers. Because the problem appears to be chronic, WorldCom must invest time and resources in the tracking and investigation of each instance of missing notifiers.

To ensure that this problem stays at its current level and does not escalate, WorldCom proactively opens trouble tickets with SBC/Ameritech for each missing notifier so that it can be reflowed to us. The primary root cause of the problem continues to be manual handling errors. There are basic problems associated with the missing SOC's. If Ameritech Indiana has actually completed the order but simply not notified WorldCom that it has done so, WorldCom cannot provide support to the customer at all, since our systems will show that the customer has not yet been transferred to us. If the order has been completed (but the SOC notification is hung up somewhere in the Ameritech systems and WorldCom is not notified of the completion), WorldCom cannot respond to customer problems or concerns, open trouble tickets via the Ameritech EBTA system, or begin billing the customer for service (even though Ameritech may have begun billing WorldCom for these services). In addition, we will be unable to send subsequent orders to add or remove features or services from the customer's line.

Recent discussions with SBC/Ameritech have revealed that the primary reason for the missing Service Order Completions is the failure of SBC/Ameritech's service representatives to notify CLECs that an order has been manually cancelled. This response is especially troubling, since SBC/Ameritech had informed WorldCom many months ago that enhanced training in the LSC had resulted in new processes meant to correct this problem. Apparently, however, as CLEC competition has grown, these procedures have been abandoned. SBC/Ameritech has promised to "retrain" its representatives once again, but this problem, in addition to the on-going provisioning errors and described earlier, shows that SBC/Ameritech's systems still need work in order to support an on-going level of competitive activity.

Review of Importance of Electronic SOC Notices

Electronic SOC notices are critical, because as a practical matter, opening the markets to competition includes ensuring that WorldCom has the ability to exchange order information with Ameritech Indiana in a fully automated manner. This means that WorldCom and Ameritech Indiana exchange electronic information, in an industry-standard, EDI format, on the provisioning and status of local orders. Before rolling out our local product in the Ameritech region WorldCom spent significant resources developing and testing an automated ordering system to exchange EDI messages with Ameritech entities for local transactions. WorldCom designed its systems to talk to Ameritech's systems in a timely, efficient manner, and to track the life cycle of every local order we submit to Ameritech.

Ameritech Indiana's failure to send WorldCom the actual electronic notices prohibits WorldCom from activating and processing customer orders. Ameritech's noncompliance in this regard should not be overlooked — it has impaired and continues

Checklist Item 2 – Non-Discriminatory Access to OSS -- Missing Service Order Completion Notices

to impair WorldCom's local service offerings. Despite Ameritech Indiana's current "band-aid" approach to fixing this problem through manual rework and undefined "software fixes," this issue continues to create a real problem for WorldCom's business and Indiana customers.

These OSS-related issues all indicate Ameritech Indiana's inability to meet the requirements of Checklist Item 2, relating to the provision of unbundled network elements.

- **Flow Through Failures**

As discussed in Ms. Lichtenberg's affidavit, many of the orders that MCI places do not flow through the Ameritech systems. This results in Ameritech relying on manual intervention, which has led to a deteriorating and inconsistent backlog of missing SOC notices. Yet, Ameritech asserts that a large percentage of the orders which have been submitted in fact flow through.

While Ameritech has certainly made improvements to its systems since this problem reached its heyday in Michigan and Illinois, it is still occurring, and still having detrimental impacts on WorldCom. One major cause is the existence of errors or mismatches in the Ameritech back end databases, such as the information in Ameritech's SAG (Street Address Guide) not matching the address on the CSR (Customer Service Record). Ameritech's failure to add the proper CLEC ownership information to orders during its manual processes has also led to massive headaches. The Commission should compel Ameritech to correct whatever fundamental flaws still reside in its systems that continue to result in flow-through failures as detailed in Ms. Lichtenberg's affidavit. The more missing SOCs that result from these failures, the more competition is harmed.

**Checklist Item 2: Non-Discriminatory Access to OSS, Checklist Item 4:
Access to Loops, and Public Interest Requirement**

Lichtenberg Affidavit

•Impediments to Line Splitting

Ms. Lichtenberg details how Ameritech fails to satisfy checklist requirements because it fails to provide line splitting. This year Ameritech has improperly rejected over 400 Indiana local voice service migration orders from WorldCom where Ameritech is presently providing the end-user's voice service and the customer has DSL service provided by a data CLEC (which could include Ameritech's own data affiliates) on the line. WorldCom has issued orders to simply migrate the voice service (while leaving the data service intact) and to serve the customer for voice via UNE-P.

Ameritech is preventing customers who have Ameritech for voice (and who have DSL service on the same line) from choosing WorldCom as their voice provider. In the vocabulary of the industry, where a customer is line sharing, Ameritech refuses to allow line splitting so as to permit migration of voice service to a CLEC serving its customer via UNE-P.

The Commission needs to make clear that all aspects of appropriate line splitting must be effectively offered and provisioned by Ameritech. The number of customers whose choice of WorldCom for local service will be denied by Ameritech's conduct will grow as the local launch continues. As Ms. Lichtenberg notes, WorldCom and other CLECs raised this issue in Phase II of IURC Cause No. 40611-S1, and Ameritech Indiana's obligations with respect to this issue are currently awaiting a ruling in that proceeding.

Checklist Item 2 (Non-Discriminatory Access to OSS) and Checklist Item 4 (Access to Loops) and Public Interest Requirement -- Impediments to Line Splitting

In the AT&T/Ameritech arbitration in Wisconsin, the Wisconsin Commission required line splitting over UNE-P, and the provisioning of the splitter as a UNE.⁵⁰ Thus, where Ameritech's data affiliate provides its own splitter, or where another data CLEC provides its own splitter, Ameritech must allow line splitting over UNE-P. Yet, as a practical matter, and as evidenced by the record in 40611-S1 and in this Cause, Ameritech has flatly refused to do so.

Ameritech has conceded that its proposed version of line splitting would entail some "downtime," due to the requirement of contending with removal and reinstallation of the splitter. The WorldCom method of line splitting for migrations, on the other hand, would involve no downtime or disruption of voice or data service. Thus, only the WorldCom method of converting line sharing to line splitting complies with the FCC directive that migrations "avoid" voice and data service disruptions.

Line splitting permits an end-user customer to obtain his/her DSL service from one provider, and voice service from another, over the same (UNE-P) loop. Ameritech Indiana continues to prevent CLECs from migrating customers with DSL to UNE-P by rejecting any order to migrate a customer that has DSL, regardless of who provides that service (including Ameritech's own data affiliates), to a new voice provider. In these cases, the customer has chosen to migrate his voice service to a CLEC, apparently without knowing that he will lose his data service if he does so. Today, Ameritech Indiana simply rejects these orders, leaving it to the CLEC to inform the customer that he/she cannot take advantage of competition in Indiana.

⁵⁰ See *Arbitration Award, Petition for Arbitration to Establish an Interconnection Agreement Between Two AT&T Subsidiaries, AT&T Communications of Wisconsin, Inc. and TCG Milwaukee, and Wisconsin Bell, Inc. (d/b/a Ameritech Wisconsin)*, Docket No. 05-MA-120 (October 13, 2000), at 78-79.

Checklist Item 2 (Non-Discriminatory Access to OSS) and Checklist Item 4 (Access to Loops) and Public Interest Requirement -- Impediments to Line Splitting

One matter that has recently transpired is that as a result of litigation regarding DSL in Michigan, Ameritech Michigan has promised to “comply” with a Michigan order requiring customers to be migrated to UNE-P even if they have DSL on their line.⁵¹ But, as discussed in Lichtenberg Exhibit 4, Ameritech Michigan’s purported “compliance plan” is not compliance at all. Rather than engage in good faith negotiations with CLECs to determine how to modify its OSS and that of its data affiliates so as to allow customers to migrate their voice service without losing dial tone or their DSL service, Ameritech Michigan has decided to migrate the customer to the voice CLEC and simply remove the DSL service from the customer’s line. This will result in significant customer dissatisfaction and could have significant negative consequences to CLECs.

Ameritech Michigan’s compliance filing states that it will now migrate customers to UNE-P even if they have DSL, but that prior to the migration, the customer will be disconnected from their DSL provider.⁵² Since at least some customers will be “surprised” by this loss of data service, Ameritech Michigan has requested that CLECs “indemnify” it against customer complaints.⁵³ It is technically feasible for Ameritech Michigan to accomplish this migration without disrupting either the customer’s DSL or voice service; it simply chooses not to. The reason is clear: According to page 6 of SBC’s August 13, 2002 Second Quarter Investor briefing (available on-line at http://www.sbc.com/investor_relations/financial_and_growth_profile/investor_briefings/

⁵¹ Opinion and Order, Michigan Public Service Commission Case No. U-12320, *In the matter, on the Commission’s own motion, to consider Ameritech Michigan’s compliance with the competitive checklist in Section 271 of the federal Telecommunications Act of 1996* (October 3, 2002) (“MI Order”), available at: <http://www.cis.state.mi.us/mpsc/orders/comm/2002/u-12320j.pdf>; and the order of December 16, 2001, pages 7-12, available at: <http://www.cis.state.mi.us/mpsc/orders/comm/2001/u-12320g.pdf>.

⁵² SBC Ameritech Michigan’s Implementation Plan in Compliance with October 3, 2002 Opinion and Order, *In the matter, on the Commission’s own motion, to consider Ameritech Michigan’s compliance with the competitive checklist in Section 271 of the federal Telecommunications Act*, Case U-12320 (November 4, 2002), page 5.

⁵³ *Id.* at p. 4.

Checklist Item 2 (Non-Discriminatory Access to OSS) and Checklist Item 4 (Access to Loops) and Public Interest Requirement -- Impediments to Line Splitting

0,5931,284,00.html), “DSL also generates value by helping reduce wireline churn. *The churn rate for SBC residential customers with DSL is 75% less than for those without DSL*” (emphasis added). Of course, “reducing churn” means reducing loss of lines to competitors. Thus, Ameritech seeks to reduce competition by bundling DSL and voice services together and removing customer choice. To add insult to injury, since it is Ameritech Michigan’s intent to disconnect the customer’s DSL service without informing the customer, it has had the audacity to include provisions in its compliance filing that require CLECs to “indemnify” it against customer complaints.

Should a customer want to migrate his voice service to a CLEC and retain DSL, he will first have to contact both Ameritech Michigan and his DSL provider to remove the DSL from his line. He can then migrate his service to the CLEC and add DSL after that order completes. This process ensures that the customer will be without his DSL service for at least some period of time, delays the migration process, and requires the customer to change his email address and in many cases buy and install a new DSL modem. Clearly, few customers will take advantage of such an offering.

SBC/Ameritech must not be allowed to use DSL to ensure that its voice customers do not move to a CLEC. Ameritech’s refusal to allow customers to choose their voice carrier if they also want to have an Ameritech subsidiary provide DSL on their line is anti-competitive and forces customers to choose between voice competition and high speed data services. SBC/Ameritech’s policy (including the OSS process documented in its Michigan compliance filing) forces customers either to migrate the voice line to the CLEC and then order DSL from another source, or simply stay on the Ameritech voice platform. Thus, SBC/Ameritech is using DSL as a means of freezing

**Checklist Item 2 (Non-Discriminatory Access to OSS) and Checklist Item 4 (Access to Loops) and
Public Interest Requirement -- Impediments to Line Splitting**

local service, despite the fact that the customer wants to move his or her voice service to a competitive provider.

This conduct on the part of SBC/Ameritech is anticompetitive as it gives customers the Hobson's choice of either migrating to their chosen voice carrier and losing their data service, or keeping their data service and not obtaining their chosen voice carrier. SBC/Ameritech should not be allowed to tie its voice service to its data service in this way, even though the August 13, 2002 Second Quarter Investor Briefing demonstrates that this is precisely its intent.

Ameritech's failure to comply with Checklist Item 2 on the line splitting over UNE-P issue (along with the other failures to comply with Checklist Item 2 set forth elsewhere in the present filing) shows that Ameritech has not passed the legal standards associated with this Checklist Item. For example,

- Section 271(c)(2)(B)(iv) of TA96 requires Ameritech to provide local loop transmission from the central office to the customer's premises, unbundled from local switching or other services.⁵⁴

- Ameritech must demonstrate that it makes line splitting available to competing carriers so that competing carriers may provide voice and data over a single loop.⁵⁵

- Ameritech must also demonstrate that a competing carrier, either alone or in conjunction with another carrier, is able to replace an existing UNE-P configuration used to provide voice service with an arrangement that enables it to provide voice and data service to a customer.⁵⁶

- To make the above showing, Ameritech must show that it is providing line splitting through rates, terms and conditions in interconnection agreements and that it offers competing carriers the ability to order an unbundled xDSL-capable loop terminated to a collocated splitter and DSLAM equipment, and combine it with unbundled switching and shared transport.⁵⁷

⁵⁴ 47 U.S.C. § 271(c)(2)(B)(iv).

⁵⁵ PA Order, App. C, ¶ 52.

⁵⁶ PA Order, App. C, ¶ 52.

⁵⁷ PA Order, App. C, ¶ 52.

Checklist Item 2 (Non-Discriminatory Access to OSS) and Checklist Item 4 (Access to Loops) and Public Interest Requirement -- Impediments to Line Splitting

- Ameritech must provide CLECs with the same quality of loops that it uses to provide service to its own customers, within a reasonable time *and with minimal service disruption*.⁵⁸
- A line sharing customer should be able to migrate his voice service to a line splitting scenario without obtaining the data CLEC's permission.⁵⁹
- A line sharing customer should be able to migrate his voice service to a line splitting scenario without disruption of that voice service.⁶⁰
- The data CLEC does not have a prior and superior right to purchase the Low Frequency Portion of the Loop ("LFPL") or the whole loop when the end user desires to change voice providers.⁶¹
- Migrating voice service over the LFPL should leave intact the HFPL and the facilities used to provide data service.⁶²
- Ameritech must facilitate migration of voice service to a CLEC, even if a data provider is providing service over the HFPL.⁶³
- Because Ameritech does not comply with these legal requirements, it has failed to prove that it has complied with the requirements of Section 271(c)(2)(B)(iv) of TA96.

The Michigan Commission has stated on no uncertain terms that Ameritech Michigan's conduct with respect to line splitting will impact the Commission's recommendations on Ameritech Michigan's 271 application.⁶⁴ This Commission should do the same, and find that absent a change of policy that would permit consumers to freely change their voice service and still retain their DSL service, that this Commission will not make a positive recommendation on Ameritech Indiana's application for long-distance authorization because Ameritech Indiana cannot meet its obligations under

⁵⁸ La. II Order at ¶ 185 (emphasis added).

⁵⁹ Opinion and Order, *In the matter, on the Commission's own motion, to consider Ameritech Michigan's compliance with the competitive checklist in Section 271 of the federal Telecommunications Act of 1996*, Michigan Public Service Commission Case No. U-12320 (October 3, 2002) ("MI Line Splitting Order") at 15.

⁶⁰ MI Line Splitting Order at 24.

⁶¹ *Id.*

⁶² *Id.*

⁶³ *Id.* at 21.

⁶⁴ See MI Order of October 4, 2002, at p. 15.

**Checklist Item 2 (Non-Discriminatory Access to OSS) and Checklist Item 4 (Access to Loops) and
Public Interest Requirement -- Impediments to Line Splitting**

Checklist Items 2 and 4 or the public interest requirement. To rule otherwise would effectively allow Ameritech to bind the local customer to Ameritech Indiana's voice service through blatantly anti-competitive means.

OSS for Line Splitting

Currently, the only method available to CLECs to convert from line sharing (where Ameritech Indiana is the voice provider and a data provider, including an Ameritech affiliate, is providing DSL service over the same line) to line splitting involves the issuance of three Local Service Requests (LSRs). The steps involved in this process are as follows:

(1) The CLEC issues an order to disconnect the HFPL. This is basically a records change to stop billing, and involves no physical work. This provides loss notification to the data CLEC.

(2) The CLEC issues an order to establish reuse of the unbundled xDSL loop. Ameritech's business rules require the CLEC to provide CFA (Carrier Facility Assignment) information on the order to make sure that the entity issuing this order has coordinated with the data CLEC, since only the data CLEC would have this information. The CFA does not appear on the Customer Service Record due to a business decision made by Ameritech.

(3) The CLEC issues an order for an ULS-ST port with CFA. Again, the CFA is only necessary because of an Ameritech business rule.

This multiple order process for changing from line sharing to line splitting over UNE-P will likely cause outages. Ameritech should not be allowed to have a multiple order process for orders that disconnect and reconnect lines in this type of migration.

**Checklist Item 2 (Non-Discriminatory Access to OSS) and Checklist Item 4 (Access to Loops) and
Public Interest Requirement -- Impediments to Line Splitting**

CLECs have proposed a streamlined, single-order process for line splitting. In the Michigan Commission's line-splitting collaborative, the CLECs made a joint submission on how Ameritech could handle line splitting over UNE-P. The Michigan line splitting collaborative was ordered by the Michigan PSC as part of the presently pending Ameritech Michigan 271 docket in Case No. U-12320. This joint CLEC position, which is markedly different from SBC/Ameritech's, is attached as Exhibit SL-1 to Exhibit 3 to the affidavit of Sherry Lichtenberg. SL-1 was submitted to this Commission in Cause No. 40611-S1 and reviews a number of different line splitting scenarios and is something that could also be modified and adopted for Indiana (with certain changes such as the applicable pricing to reflect the results of the present Indiana costing docket). The Commission is currently considering this proposal in Phase II of IURC Cause No. 40611-S1.

Until Ameritech Indiana begins providing CLECs with the ability to engage in line splitting without disruptions of service and inadequate OSS, this Commission should find that Ameritech Indiana has failed to demonstrate compliance with Checklist Items 2 and 4, as well as the public interest requirement.

Checklist Item 5: Unbundled Local Transport

•Failure to Comply With Shared Transport Obligations

The issue regarding Checklist Item 5 is whether Ameritech Indiana has complied with its obligations to provide shared transport to CLECs in Indiana as part of the SBC/Ameritech merger conditions. The answer is a resounding “no.”

On October 9, 2002, the FCC imposed a \$6 million forfeiture against SBC for its willful failure to comply with the SBC/Ameritech merger conditions relating to the provision of shared transport.⁶⁵ In a separate statement, FCC Chairman Michael Powell stated that he fully supported this forfeiture, “the highest in the history of the Commission,” “which penalizes SBC for serious violations of our local competition rules.”⁶⁶ Chairman Powell noted that the merger conditions became the law, and that “SBC then went out and broke the law in five different states by failing to provide shared transport to its competitors. Such unlawful, anti-competitive behavior is unacceptable. Instead of sharing, as the law requires, SBC withheld and litigated, forcing competitors to expend valuable time and resources to exercise their rights under the FCC order.”⁶⁷

Section 271(c)(2)(B)(v) of TA96 requires Ameritech Indiana to provide “local transport from the trunk side of a wireline local exchange carrier switch unbundled from switching or other services.”⁶⁸ Because the FCC has very recently found that SBC/Ameritech failed to comply with its obligations regarding the provision of shared

⁶⁵ See Forfeiture Order, *supra*.

⁶⁶ See Powell Press Statement, *supra*.

⁶⁷ See Powell Press Statement, *supra*.

⁶⁸ 47 U.S.C. § 271(c)(2)(B)(v).

Checklist Item 5 (Transport) -- Failure to Comply with Shared Transport Obligations

transport in the five-state SBC/Ameritech region, Ameritech Indiana has failed to prove that it has complied with the requirements of Section 271(c)(2)(B)(v) of TA96.⁶⁹

⁶⁹ 47 U.S.C. § 271(c)(2)(B)(v); Forfeiture Order.

**Checklist Item 6: Unbundled Local Switching and Checklist Item 7: Access
to OS/DA Services**

Caputo Affidavit

•Customized Routing of OS/DA/Availability of OS/DA as UNEs

Mr. Caputo discusses Ameritech's failure to provide customized routing of OS/DA (Operator Services/Directory Assistance) calls placed by WorldCom's customers. Because of this, Ameritech fails to satisfy FCC requirements, as well as Checklist Items 6 and 7. As Mr. Caputo explains, WorldCom can provide OS/DA to its customers in two ways – by purchasing it from Ameritech, or by providing it itself. However, even if WorldCom chooses the latter option, it is dependent upon Ameritech to route WorldCom's UNE-P customers' OS/DA calls to WorldCom's OS/DA facilities. Thus, while WorldCom prefers this option for the control it allows over WorldCom's OS/DA service offerings, Ameritech continues to fail to provide the customized routing necessary to meet WorldCom's business needs and FCC rules, despite the fact that it is technically feasible.

It is clear that Ameritech has failed to comply with the applicable legal requirements regarding OS/DA. For example,

•Section 271(c)(2)(B)(vi) of TA96 requires Ameritech to provide CLECs with local switching unbundled from transport, local loop transmission, or other services.⁷⁰

•As part of its Section 271(c)(2)(B)(vi) obligations, Ameritech must provide CLECs with technically feasible customized routing functions requested by CLECs so that they can designate the particular outgoing trunks that will carry certain classes of their customers' originating traffic.⁷¹ But it has failed to do this.

•CLECs are not required to follow the BFR process to obtain access to an existing UNE, and unbundled local switching, which encompasses customized routing, is a UNE. Yet, Ameritech insists that CLECs follow the BFR process.

⁷⁰ 47 U.S.C. § 271(c)(2)(B)(vi).

⁷¹ TX Order at ¶ 339, n. 946; NY Order at ¶ 346, n. 1071; La. II Order at ¶ 207, 210, 219, 221, 224.

**Checklist Item 6 (Unbundled Local Switching) and Checklist Item 7 (Access to OS/DA Services) --
Failure to Provide Customized Routing of OS/DA,
Availability of OS/DA as UNEs**

- WorldCom's repeated requests for customized routing of OS/DA calls over shared access, Feature Group D trunks, constitute the type of "request" envisioned by the La. II Order.
- Ameritech has failed to comply with WorldCom's repeated requests for customized routing of OS/DA calls over shared access, Feature Group D trunks.
- If Ameritech fails to provide CLECs with technically feasible customized routing functions that they have requested, it must provide CLECs with OS/DA at cost-based rates, until it complies with its obligations to provide the CLECs' requested form of customized routing.⁷²
- Because Ameritech has failed to provide WorldCom with its technically-feasible, requested form of customized routing, it has failed to prove that it has complied with the requirements of Section 271(c)(2)(B)(vi) of TA96.
- Because Ameritech has failed to provide WorldCom with OS/DA at cost-based rates in the absence of its requested form of customized routing, it has failed to prove that it has complied with the requirements of Section 271(c)(2)(B)(vii) of TA96, which requires Ameritech to provide non-discriminatory access to operator services.⁷³

Due to Ameritech's failure to provide compliant customized routing, it must provide OS/DA as UNEs – at TELRIC-based prices – until it complies with its customized routing obligations.⁷⁴ This Commission should ensure that Ameritech satisfies this legal obligation until it successfully implements WorldCom's requested mode of customized OS/DA routing. In any event, the Commission should decline to recommend to the FCC that Ameritech Indiana be granted approval to provide in-state,

⁷² 47 U.S.C. § 271(c)(2)(B)(vii); Order, *Investigation into the compliance of Illinois Bell Telephone Company with the order in Docket 96-0486/-569, Docket No. 98-0396* (Oct. 16, 2001); Decision, California Public Utility Commission, *Application by Pacific Bell Telephone Company (U 1001 C) for Arbitration of an Interconnection Agreement with MCI Metro Access Transmission Services, LLC (U 5253 C) Pursuant to Section 252(b) of the Telecommunications Act of 1996* at pp. 11-13; Opinion and Order, *In the matter of the application of Ameritech Michigan for approval of a shared transport cost study and resolution of disputed issues related to shared transport*, Michigan Public Service Commission Case No. U-12622 (March 19, 2001) at p. 23.

⁷³ 47 U.S.C. § 271(c)(2)(B)(vii); PA Order at App. C, ¶ 7.

⁷⁴ TELRIC-based pricing for OS/DA services is at issue in Phase II of Cause No. 40611-S1 and WorldCom will defer comments on pricing until the Commission solicits them following the issuance of the Phase II order.

**Checklist Item 6 (Unbundled Local Switching) and Checklist Item 7 (Access to OS/DA Services) --
Failure to Provide Customized Routing of OS/DA,
Availability of OS/DA as UNEs**

interLATA services in Indiana under Section 271 of the Telecommunications Act of 1996

until Ameritech meets the customized routing obligations of Checklist Items 6 and 7.

Checklist Item 7: Access to Directory Assistance Services and Checklist Item 10: Access to Databases and Associated Signaling

Lehmkuhl Affidavit

• Directory Assistance Listings Download

Although the FCC has determined that the DAL (Directory Assistance Listing) database is a UNE, Ameritech today does not offer DAL on nondiscriminatory terms (at TELRIC rates). WorldCom's ability to receive the DAL database in a readily accessible format and at reasonable and nondiscriminatory prices is essential to WorldCom's ability to compete in the directory assistance marketplace. In addressing the appropriateness and need for DAL, the FCC has stated:

1. . . . We conclude today that local exchange carriers (LECs) must provide competing directory assistance (DA) providers . . . that qualify under section 251(b)(3) of the Communications Act of 1934, as amended by the Telecommunications Act of 1996 ("the Act") . . . with nondiscriminatory access to the LECs' local directory assistance databases, and must do so at nondiscriminatory and reasonable rates. . . . To the extent that such DA providers qualify under section 251(b)(3), we find that LEC failure to provide such access may also violate section 201(b). . . .

3. Essential to a competitor's ability to provide directory assistance is access to an accurate local directory assistance database. . . . Because incumbent LECs derive their local directory assistance database through their service order processes, they continue to maintain a near total control over the vast majority of local directory listings that form a necessary input to the competitive provision of directory assistance. Without nondiscriminatory access to the incumbents' directory assistance databases, competing DA providers may be unable to offer a competitive directory assistance product. This, in turn, may affect the ability of both the DA providers and the CLECs that rely on them to compete in the local exchange marketplace. The directory assistance market will not be fully competitive as long as incumbent LECs have the ability to leverage their monopoly control of their DA databases into market dominance. . . .

6. The Commission acknowledged that many LECs offered directory assistance for purchase or resale to competitors, but concluded that under

the general definition of "nondiscriminatory access," CLECs must be able to obtain at least the same quality of access to these services that a LEC itself enjoys, and that merely offering directory assistance and directory listing services for resale or purchase would not, in and of itself, satisfy this requirement. . . . Rather, the Commission concluded that section 251(b)(3) required LECs to share their directory assistance databases with their competitors, in "readily accessible" tape or electronic formats, and that such data had to be provided in a timely fashion upon request. . . . The purpose of requiring "readily accessible" formats was to ensure that no LEC, either inadvertently or intentionally, provided subscriber listings in formats that would require the receiving carrier to expend significant resources to enter the information into its systems. . . . The Commission concluded that a highly effective way to accomplish nondiscriminatory access to directory assistance, apart from resale, would be to allow competing providers to obtain read-only access to the directory assistance databases of the LEC providing such access. . . . The Commission believed that access to such databases would promote seamless access to directory assistance in a competitive local exchange market.⁷⁵

It is clear that Ameritech has failed to comply with the applicable legal

requirements regarding DAL. For example,

- An accurate local directory assistance database is essential to a competitor's ability to provide directory assistance.⁷⁶

- "Because incumbent LECs derive their local directory assistance database through their service order processes, they continue to maintain a near total control over the vast majority of local directory listings that form a necessary input to the competitive provision of directory assistance."⁷⁷

- Without nondiscriminatory access to Ameritech's directory assistance database, WorldCom cannot offer a competitive directory assistance product.

- "The directory assistance market will not be fully competitive as long as incumbent LECs have the ability to leverage their monopoly control of their DA databases into market dominance...."⁷⁸

- Section 271(c)(2)(B)(vii) of TA96 requires Ameritech to provide CLECs with nondiscriminatory access to directory assistance services to allow the other carrier's customers to obtain telephone numbers.⁷⁹

⁷⁵ *In the Matter of Provision of Directory Listing Information*, First Report & Order, FCC 0127 (January 2001) (*DAL Provisioning Order*), ¶¶ 1, 3, and 6.

⁷⁶ *DAL Provisioning Order* at ¶ 3.

⁷⁷ *DAL Provisioning Order* at ¶ 3.

⁷⁸ *See DAL Provisioning Order*.

⁷⁹ 47 U.S.C. § 271(c)(2)(B)(vii).

- Section 271(c)(2)(B)(x) of TA96 requires Ameritech to provide CLECs with nondiscriminatory access to databases and associated signaling necessary for call routing and completion.⁸⁰
- In the UNE Remand Order, the FCC found that “nondiscriminatory access to the incumbent’s underlying databases used in the provision of OS/DA is required under Section 251(b)(3) of the 1996 Act.”⁸¹
- Section 251(b)(3) of TA96 requires Ameritech to permit WorldCom to have “nondiscriminatory access to telephone numbers, operator services, directory assistance, and directory listing....”⁸²
- In the UNE Remand Order, the FCC found that it need not “expand the definition of OS/DA... to include an affirmative obligation ... to provide directory assistance listings updates in daily electronic batch files ... *because, as mentioned above, these obligations already exist under section 251(b)(3), and the relevant rules promulgated thereunder.*”⁸³
- Non-discriminatory access to DAL under Section 251(b)(3) of TA96 requires cost-based pricing.⁸⁴
- Accordingly, federal law requires “just, reasonable and non-discriminatory” pricing for DAL regardless of whether or not it is required to be unbundled pursuant to Sections 251(c) and (d) of TA96.
- Because Ameritech has failed to provide WorldCom with non-restricted access to the DAL database at cost-based rates, it has failed to prove that it has complied with the requirements of Section 271(c)(2)(B)(vii) of TA96.
- Because Ameritech has failed to provide WorldCom with non-restricted access to the DAL database at cost-based rates, it has failed to prove that it has complied with the requirements of Section 271(c)(2)(B)(x) of TA96.
- Other states, such as Michigan, have ruled that having TELRIC based rates for DAL is a checklist issue.⁸⁵

⁸⁰ 47 U.S.C. § 271(c)(2)(B)(x).

⁸¹ *In re Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-98, Third Report and Order and Fourth Further Notice of Proposed Rulemaking, 15 F.C.C.R. 3696 (1999) (“UNE Remand Order”) at ¶ 441.

⁸² 47 U.S.C. § 251(b)(3).

⁸³ UNE Remand Order at ¶ 444 (emphasis added); Nations Reply Aff. at ¶ 5, FN 1.

⁸⁴ DAL Provisioning Order at ¶ 1 (“We conclude today that local exchange carriers (LECs) must provide competing directory assistance (DA) providers that qualify under section 251(b)(3) of [TA96] with nondiscriminatory access to the LECs’ local directory assistance databases, and must do so at nondiscriminatory and reasonable rates . . .”).

⁸⁵ See, pages 14-16 of the December 20, 2001, order of the MPSC in Case No. U-12320, available at: <http://www.cis.state.mi.us/mpsc/orders/comm/2001/u-12320g.pdf>.

Checklist Items 7 (Access to Directory Assistance Services) and 10 (Access to Databases and Associated Signaling) -- Directory Assistance Listings Download

It is perfectly clear that Ameritech must provide this DAL information to WorldCom and that it be priced at TELRIC, which is the only nondiscriminatory and reasonable pricing for this type of information. Accordingly, federal law requires “just” “reasonable” and “non-discriminatory” pricing for DA and DAL regardless of whether or not directory assistance is required to be unbundled pursuant to Sections 251(c) and (d).

As Mr. Lehmkuhl explains, Ameritech is not providing DAL at cost-based rates. The Commission cannot even remotely consider Ameritech’s application until Ameritech first provides DAL to WorldCom (and other qualifying providers) at TELRIC rates, and in an acceptable manner. Ameritech has a long way to go to meet Checklist Items 7 and 10.

Checklist Item 10: Databases and Associated Signaling

Lehmkuhl Affidavit

•CNAM Batch Downloads

As set forth in Mr. Lehmkuhl's affidavit, obtaining CNAM (Customer Name database) in a batch download form, as opposed to per-query access, is very important to WorldCom, which is why WorldCom litigated this issue actively in Cause No. 40611-S1. The fact that Indiana has a state-enacted Do Not Call bill indicates that privacy is an issue of interest to Indiana consumers, and that products such as caller I.D. and caller I.D. with name, which enable users to decide which calls to answer, are an important part of a competitive carrier's offerings.

Access to CNAM downloads, as opposed to the more expensive "per-query" form of CNAM access, is crucial to WorldCom's ability to offer such products economically and to compete in the current market. Because the CNAM database, as a call-related database, has been deemed a UNE, Ameritech Indiana is required to provide access thereto on just, reasonable and nondiscriminatory terms. Forcing CLECs to purchase per query access, which requires even those CLECs with their own SS7 networks to pay for using Ameritech's SS7 network, does not meet this standard. The whole notion of unbundling network elements was to allow CLECs to purchase only those UNEs they need to obtain from the incumbent. As Mr. Lehmkuhl describes, it also increases WorldCom's development costs and discourages innovation.

Because of the technical difficulty, the higher costs associated with accessing Ameritech's CNAM on a per query basis, and Ameritech Indiana's refusal to allow nondiscriminatory download access, WorldCom does not currently access Ameritech Indiana's CNAM database. Although WorldCom provides a caller ID product to its

facilities-based customers, it uses an ANI look-up to provide the calling number and originating state since it does not have the detailed calling name information on the majority of Indiana subscribers as does Ameritech Indiana. Of course for WorldCom's UNE-P customers, Ameritech Indiana provides the CNAM service because such calls are handled by Ameritech Indiana. Without with download access to Ameritech Indiana's CNAM database, however, WorldCom is forced to provide an inferior service to its facilities-based customers without realizing the type of competitive and innovative services contemplated by TA96.

This issue is currently under Commission consideration in Phase II of IURC Cause No. 40611-S1. WorldCom will address the subject in more detail after that order issues, but it is clear that Ameritech has failed to comply with the applicable legal requirements regarding CNAM batch download:

- Section 271(c)(2)(B)(x) of TA96 requires Ameritech to provide nondiscriminatory access to databases and associated signaling necessary for call routing and completion.⁸⁶
- “Call-related databases” are “databases, other than operations support systems, that are used in signaling networks for billing and collection or the transmission, routing, or other provision of telecommunications service.”⁸⁷
- The CNAM database is a call-related database under the FCC's definition.⁸⁸
- Ameritech's refusal to provide CLECs with batch-download CNAM access is discriminatory and violates TA96, including Section 251(c)(3), 271(c)(2)(B)(x), FCC Rules 51.311 and 51.319.⁸⁹
- Because Ameritech has failed to provide WorldCom with batch-download CNAM access, it has failed to prove that it has complied with the requirements of Section 271(c)(2)(B)(x) of TA96.

⁸⁶ 47 U.S.C. § 271(c)(2)(B)(x).

⁸⁷ CT Order at App. D, ¶ 63.

⁸⁸ UNE Remand Order at ¶ 406.

⁸⁹ See 47 U.S.C. § 251(c)(3); 47 U.S.C. § 271(c)(2)(B)(x); 47 C.F.R. § 311; 47 C.F.R. § 319(e)(2)(i).

Checklist Item 10 (Access to Databases and Associated Signaling) -- CNAM Batch Downloads

For these reasons, this Commission should join those in Georgia, Tennessee, Michigan and Minnesota and require the provision of CNAM information in batch download form, and decline to find that Ameritech Indiana has met its obligations under Checklist Item 10 unless and until it does so.

•Ameritech CNAM Update Problems

In addition to the CNAM download issue, Mr. Lehmkuhl discusses a flaw in the way that Ameritech provisions CNAM for WorldCom customers who are calling Ameritech customers. An example will help explain the problem. There is a travel agency in Illinois that is now a WorldCom local customer, but was previously an Ameritech local customer. When this travel agency placed telephone calls to Ameritech local customers and these Ameritech local customers had caller ID with name, the travel agency was being identified as a funeral home. This occurred because Ameritech failed to update its CNAM database, which is the source of the name displayed in the caller ID with name unit. Even though this example is from Illinois, the same Ameritech systems and processes are at issue in Indiana, and therefore this Illinois experience is relevant to this Indiana filing.

This incorrect display on the caller ID with name obviously has a detrimental effect on WorldCom customers. Having one's calling information displayed incorrectly on caller I.D. units should not be the price of going with a competitor. However, Ameritech's failure to update its CNAM information for customers who obtain local service from a CLEC causes the problems that CLEC customers are encountering.

This issue has been escalated between the companies. While Ameritech will correct the wrong information as each wrong piece of data is noticed, there is no present timetable for a permanent solution so as to prevent incorrect information from being displayed. It should also be noted that while Ameritech is taking steps to correct this problem, the only way the problem can be identified, without preemptive action on Ameritech's part, is for a WorldCom customer to notify WorldCom if a third party (*i.e.*

**Checklist Item 10 (Access to Databases and Associated Signaling) –
Ameritech CNAM Update Problems**

an Ameritech or another CLEC's customer) notifies the WorldCom customer that the caller ID with name is displaying the wrong name. Obviously, there can be long delays in any third party notifying the WorldCom customer about the problem. It is unknown what would happen if the Ameritech customer would contact Ameritech customer service. Also, it is highly likely that the Ameritech customer will simply do nothing but to think that the WorldCom local customer is somehow incompetent due to its apparent failure to accurately provide its name to the telephone company.

Again, absent rectifying these failures, Ameritech Indiana has failed to demonstrate compliance with Checklist Item 10 as a condition of its application to provide long distance services in Indiana.

Checklist Item 10: Access to Databases and Associated Signaling

Lehmkuhl Affidavit

•Non-Discriminatory Access to LIDB

Mr. Lehmkuhl also discusses non-discriminatory access to Ameritech's Line Information database (LIDB). Mr. Lehmkuhl describes why this violates the law and why Ameritech's current LIDB restrictions are improper and anticompetitive.

LIDB stands for Line Information Database. It is another of what the FCC has identified as call-related databases and is therefore a UNE like CNAM. This database, unlike CNAM, is used for validating calling cards, collect call and third party call information. When a 0+ or 0- call is initiated, a billing number service ("BNS") validation query is initiated. After checking WorldCom's own internal servers, queries are aggregated by switch location and sent out over the SS7 network to one of several service control points around the country hosting a LIDB database. The query provides ANI information from both caller and recipient, as well as the point code from the originating carrier to identify which entity is initiating the query. Once received, the LIDB database provider initiates a positive or negative authorization code. The call proceeds if a positive response code is received and blocked if a denied response code is returned.

Ameritech Indiana currently limits WorldCom's use of its LIDB database as a UNE only in those cases where WorldCom would use it for the provision of local service. In those cases where it would be used by WorldCom to validate non-local calls, Ameritech Indiana does not treat LIDB as a UNE and charges a significantly higher, non-TELRIC based price for a database query.

This restriction is discriminatory because the unbundling provisions of TA96 specifically give CLECs the right to use unbundled network elements “for the provision of a telecommunications service,” and in no way limit the use to local services only. The Commission reaffirmed that TA96 meant what it said in the *Local Competition Order*, rejecting the ILECs’ view “that we should read into the current statute a limitation on the ability of carriers to use unbundled network elements, despite the fact that no such limitation survived the Conference Committee’s amendments to the 1996 Act.” *Local Competition Order* at ¶ 359. This holding was then affirmed in the *UNE Remand Order*, where the Commission once again expressly refused to read a use restriction into TA96. *UNE Remand Order* at ¶ 484. This straightforward understanding of section 251(c)(3) is then codified in 47 CFR § 51.309(a), which specifies that “an incumbent LEC shall not impose limitations, restrictions, or requirements on . . . the use of unbundled network elements that would impair the ability of a requesting telecommunications carrier to offer a telecommunications service in the manner the requesting telecommunications carrier intends.”

In its *Supplemental Order* and *Supplemental Order Clarification*, the FCC imposed a temporary use restriction only on certain loop transport combinations in order to consider the ramifications on universal service of bulk conversions of access services to such loop transport combinations, and in particular to consider whether CLECs would be impaired without access to such loop-transport combinations used in this manner. But it in no way retracted its previous understanding of TA96 that UNEs can be used for any telecommunications purpose. Under TA96, Ameritech Indiana cannot direct how WorldCom uses an unbundled network element to provide telecommunications services.

Ameritech Indiana's attempt to restrict WorldCom's use of the LIDB database imposes a restriction on WorldCom that is contrary to TA96 and the Commission's regulations.

Ameritech has recently transferred the Ameritech LIDB database to the SNET DG.⁹⁰ WorldCom believes that this transfer is an attempt to play "hide-the-ball" with the UNE.

While Ameritech is required by the FCC's *UNE Remand Order* and Section 51.319(e)(2)(A) of the FCC's Rules to provide access to call-related databases as a UNE, Ameritech has placed ownership of and, arguably, control over access to the CNAM/LIDB databases with an unregulated entity, SNET DG, thus calling into question Ameritech's ability to fulfill its obligation to provide WorldCom with nondiscriminatory access to call-related databases in a manner that "promotes the ability of new entrants and established competitors to provide service in the local exchange market." *See, UNE Remand Order* at ¶ 411.

Moreover, such surrender of a UNE to an unregulated subsidiary clearly violates the spirit if not the letter of *ASCENT v FCC*, in which the Court of Appeals for the D.C. Circuit noted that "to allow an ILEC to sideslip Section 251(c)'s requirements by simply offering telecommunications services through a wholly-owned affiliate seems to us a circumvention of the statutory scheme." *Association of Communications Enterprises v. Federal Communications Commission*, 235 F.3d 662, 666 (D.C. Cir., 2001). Indeed, it enables Ameritech to claim that it cannot provide WorldCom with the type of access to which WorldCom is entitled because it does not have control over the data. The Commission should not countenance such gamesmanship with respect to UNEs that are so integral to local competition.

⁹⁰ See Draft Affidavit of William Deere at ¶ 259.

It also calls into question whether Ameritech would pay its subsidiary SNET DG the same rates for non-local LIDB as it would charge WorldCom. WorldCom was approached by SNET DG regarding a LIDB service where it would charge WorldCom at least \$0.06 per query for LIDB. This rate would presumably be a “market-based” rate, instead of the Indiana rate for LIDB of \$0.014490 for validation and \$0.000017 for LIDB transport. WorldCom is concerned that this means it may no longer access LIDB as a UNE at TELRIC rates in Indiana.

It is clear that Ameritech has failed to comply with the applicable legal requirements regarding access to the LIDB database. For example,

- Section 271(c)(2)(B)(x) of TA96 requires Ameritech to provide nondiscriminatory access to databases and associated signaling necessary for call routing and completion.⁹¹
- “Call-related databases” are “databases, other than operations support systems, that are used in signaling networks for billing and collection or the transmission, routing, or other provision of telecommunications service.”⁹²
- The LIDB is a call-related database under the FCC’s definition.⁹³
- The LIDB, as a call-related database, is a UNE that Ameritech must provide on a non-discriminatory basis.⁹⁴
- Ameritech’s refusal to provide LIDB at TELRIC-based rates when used to validate calling card calls, collect calls and third party call information is discriminatory in violation of TA96 because the unbundling provisions of TA96 give CLECs the right to purchase and use UNEs “for the provision of telecommunications service” and impose no restriction that said UNEs be used to provide local services only.⁹⁵

⁹¹ 47 U.S.C. § 271(c)(2)(B)(x).

⁹² CT Order at App. D, ¶ 63.

⁹³ UNE Remand Order at ¶¶ 403, 410-11.

⁹⁴ 47 U.S.C. § 251(c)(3); FCC Rule 51.319(e)(2) (requiring ILECs to provide competitors with access to call-related databases in a non-discriminatory fashion consistent with Section 251(c)(3) of TA96); UNE Remand Order at ¶ 410 (“Thus, we require incumbent LECs to provide non-discriminatory access to their call-related databases, including, but not limited to, the CNAM Database...”); UNE Remand Order at ¶ 411 (“Thus, our decision to unbundle the signaling network leads us to unbundle call-related databases as well.”).

⁹⁵ CT Order at App. D, ¶ 63; First Report and Order at ¶ 359 (“We also reject the incumbent LEC’s arguments that . . . carriers cannot purchase access to unbundled elements to provide exchange access services to themselves, for the purpose of providing long distance services to customers. The incumbent LECs are arguing in effect that we should read into the current statute a limitation on the ability of carriers

•Because Ameritech has failed to provide WorldCom with nondiscriminatory access to LIDB, it has failed to prove that it has complied with the requirements of Section 271(c)(2)(B)(x) of TA96.

To summarize, Ameritech's use restrictions on LIDB are unwarranted and contrary to TA96 and FCC requirements. Ameritech Indiana's contention that it has a right to impose this use restriction on LIDB is especially outrageous in light of its bid to enter into the long distance market, since it would presumably not charge itself higher access fees to complete long distance calls. The FCC expressly named LIDB a database subject to unbundling, and it did so knowing full well that virtually the only application of LIDB is to provide access services, since very little local calling is done with a calling card. Ameritech Indiana's claim that the FCC unbundled LIDB but somehow implicitly proscribed virtually all of its known uses strains credulity. Ameritech Indiana's imposition of this type of a use restriction on LIDB is little more than a stealth effort to eliminate LIDB from the list of unbundled network elements altogether. Such a result should be remedied before Ameritech Indiana itself can use the database to provide long distance services, unfettered by higher costs, for exactly the same purposes that CLECs will access the database. Accordingly, the Commission should withhold any recommendation that the FCC grant Ameritech 271 authority in Indiana unless and until Ameritech Indiana removes use restrictions from the LIDB database, as they violate Ameritech Indiana's obligations under Checklist Item 10.

to use unbundled network elements, despite the fact that no such limitation survived the Conference Committee's amendments to the 1996 Act."); UNE Remand Order at ¶ 484 (affirming First Report and Order and stating that "[t]his conclusion that the Act does not permit usage restrictions was codified in Rule 51.309(a), which provides that '[a]n incumbent LEC shall not impose limitations, restrictions, or requirements on request for, or the use of, unbundled network elements that would impair the ability of a requesting communications carrier to offer a telecommunications service in the manner the requesting telecommunications carrier intends.'"); 47 U.S.C. § 251(c)(3); 47 U.S.C. § 271(c)(2)(B)(x); 47 C.F.R. § 311; 47 C.F.R. § 319(e)(2)(i).

Public Interest Requirement

Campion Affidavit

•Ongoing Uncertainty Relating to OSS and UNE Issues in Indiana

Ms. Campion addresses the ongoing uncertainty relating to the remedy plan and UNE proceedings in Indiana, and its impact on Ameritech Indiana's Section 271 application. As she explains, Ameritech's zeal for challenging every Commission order has severely impacted the timing and certainty of the UNE rates stemming from the Commissions UNE docket, and has called into question the continuing viability of the Commission-ordered remedy plan. SBC's continuing campaign against the availability of the UNE-P and certain UNEs also hampers competitors' efforts to structure business plans.

Ms. Campion also explains that this strategy of fighting non-discriminatory access to UNEs and implementation of UNE rates every step of the way – while par for the course throughout the Ameritech region – is antithetical to the notion of “irreversibly open” markets, the precondition for gaining 271 approval. Ms. Campion also notes that no ILEC has ever received Section 271 authority without a remedy plan in place, and therefore recommends that the Commission condition any positive recommendation on Ameritech Indiana's Section 271 application on its agreement to operate under the Commission-ordered remedy plan, so that Ameritech cannot negate through the courts the orders that serve as the very cornerstones of its claims of 271 checklist compliance.

•Public Interest – Rate Caps

To remedy the problems identified above and to serve the public interest, Ms. Campion recommends that the Commission cap the TELRIC rates that will come out of Cause No. 40611-S1 for five years, so that Ameritech cannot ride the wave to 271 approval based on those rates and then come in and collaterally attack them by immediately seeking to institute a new TELRIC docket.

In analyzing this factor, and other factors set forth in this brief concerning the public interest, the Commission should keep the following legal standards in mind:

- After Ameritech satisfies all other Section 271 requirements, it must satisfy the public interest analysis before receiving in-region long distance authority.⁹⁶
- The FCC must determine that Ameritech's requested Section 271 authorization would be consistent with the public interest, convenience and necessity.⁹⁷
- The overriding goal in the public interest analysis is to ensure that nothing undermines the conclusion, suggested by checklist compliance, that the local market in Indiana is open.⁹⁸
- The public interest test is independent from the 14-point checklist and requires a review of the effect of Section 271 entry on all markets, including local markets.⁹⁹
- One relevant factor in the public interest analysis is whether the FCC has sufficient assurance that the local market in Indiana will remain open after the Ameritech's Section 271 application is granted.¹⁰⁰
- The FCC has broad discretion in the public interest analysis, and the test requires a case-by-case analysis.¹⁰¹

⁹⁶ 47 U.S.C. § 271(d)(3)(C); MI Order at ¶ 381; KS-OK Order at ¶ 266.

⁹⁷ 47 U.S.C. § 271(d)(3)(C); PA Order at App. C, ¶ 70; VT Order at ¶ 61.

⁹⁸ TX Order at ¶ 417; NY Order at ¶ 423; KS-OK Order at ¶ 267; PA Order at App. C, ¶ 71; VT Order at ¶ 61; MA Order at ¶ 233.

⁹⁹ TX Order at ¶ 417; NY Order at ¶ 423; La. II Order at ¶ 362; KS-OK Order at ¶ 267.

¹⁰⁰ KS-OK Order at ¶ 267; MA Order at ¶ 233.

¹⁰¹ La. II Order at ¶ 362.

Accordingly, this Commission has ample grounds, on numerous issues, to properly conclude that the public interest would not be served by granting the present 271 application.

CONCLUSION

It is important that this Commission not, as Ameritech Indiana suggests, effectively “rubberstamp” certain checklist items simply because other Commissions elsewhere may have found SBC practices compliant on different records. While information obtained from other 271 proceedings throughout the Ameritech region regarding checklist noncompliance due to failures of Ameritech’s regionwide systems is valuable and relevant here in Indiana, the fact that some SBC states have obtained 271 approvals based on different records, with varying degrees of state and FCC scrutiny, should neither be dispositive here, nor deter this Commission from a full examination of Ameritech Indiana’s checklist compliance.

As demonstrated above, Ameritech Indiana’s 271 checklist filing is procedurally inappropriate and substantively deficient. Competition barely exists in this state, much less “fully and irreversibly,” and Ameritech Indiana’s campaign of anti-UNE-P and anti-TELRIC advocacy, coupled with its flurry of appeals, is plainly targeted at quashing whatever nascent competition has managed to emerge. Furthermore, Ameritech Indiana’s draft 271 application fails to meet many of the fourteen prerequisite checklist items. By way of example, the affidavits submitted in conjunction with these Initial Comments demonstrate, Ameritech Indiana has failed to meet its obligation under Checklist Items 2, 4, 5, 6, 7 and 10, as well as public interest concerns.

The Commission should decline to endorse Ameritech Indiana’s application at the FCC on these grounds, as well as those raised by other competitors in their respective comments and affidavits. The one bright spot of Ameritech Indiana’s premature filing is that it has highlighted a number of areas where the Commission should become involved, and perhaps institute investigations, to let Ameritech Indiana know that paper promises of

open markets are inadequate, and to require Ameritech to take concrete steps to truly open its markets to competition as the 1996 Act (and the 1994 state legislation) require.

Dated: December 11, 2002

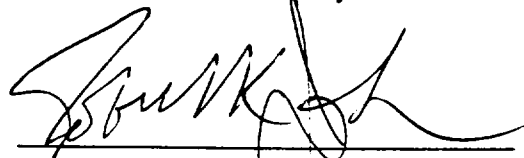
WORLDCOM, INC.
By: 
Deborah Kuhn
WorldCom, Inc.
205 N. Michigan Ave., 11th Floor
Chicago, Illinois 60601
(312) 260-3326

Of Counsel:

Robert Johnson
BOSE, McKINNEY & EVANS
135 North Pennsylvania Street
First Indiana Plaza, Suite 2700
Indianapolis, Indiana 46204
(317) 684-5246

CERTIFICATE OF SERVICE

I, Robert K. Johnson, hereby certify that the "Initial Comments of WorldCom, Inc. on Ameritech Indiana's Draft Section 271 Application" was served electronically on December 11, 2002 to Ameritech271@urc.state.in.us.


Robert K. Johnson
Rjohnson@boselaw.com



For more information, contact:
Steve Kauffman, 312.932.2805

Exhibit 1

MEDIA ADVISORY

SBC FAMILY OF COMPANIES READY TO ASSIST CONSUMERS, BUSINESSES CONCERNED ABOUT INDUSTRY TURMOIL

The current uncertainty in the telecommunications industry may lead many consumers and businesses to re-evaluate the quality of communications services they receive and the dependability of the companies providing those services. With a history of more than 100 years of service, SBC Communications Inc. and its operating companies are prepared to accommodate new customers looking for dependable, reliable voice and data communications services.

SBC, a company consumers and businesses know and trust for their communications needs, has numerous offers available to customers affected by the on-going industry volatility, and is making it a priority to assist them:

- With call volumes already spiking in many regions, SBC today extended the hours of its call centers which specialize in handling customers who want to switch their service to SBC. These call centers, which now are open 7 a.m. to 9 p.m. on Monday-Friday, and 8 a.m. to 5 p.m. on Saturdays, are staffed by representatives specially trained to help customers easily establish service. Bilingual representatives also are available in many regions.
- Numbers for residential and business customer return call centers vary by region; however, all numbers are listed on www.sbc.com.
- Competitive offers are available in all locations for consumers and businesses interested in establishing local phone service with an SBC telephone company. Offers range from promotional pricing to reduced or waived connection fees.
- The process to connect is convenient. Consumers need to call only one number and typically spend 20-30 minutes over the phone, including third-party verification of the order. Service connections can be established in approximately 2-5 days, depending on location and other variables.
- For consumers and businesses desiring enhanced wireline services such as Call Waiting, Caller ID, Privacy Manager, voice mail and other calling options, promotional packages and attractively priced bundled services are available in all regions.
- Promotional offers for DSL Internet access service are in effect in many regions, with high-speed broadband access available in approximately six days.
- Wireless service is available throughout most SBC service areas through Cingular, one of the nation's leading wireless providers.
- In the SBC Southwestern Bell and SBC SNET operating regions, long distance service is available to consumers and businesses looking for the added security of a long distance company that will be there to serve their needs today and tomorrow.

Additional information regarding products and services available from SBC and its family of companies is available at www.sbc.com. SBC is making spokespersons available to discuss how consumers and businesses can change to another service provider. Please call Steve Kauffman, 312.932.2805, or David Saltz, 312.751.3530, to arrange an interview.

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Recent events in the news might have you wondering about the dependability of your communications company. Rest assured that SBC Ameritech, which has served individuals and businesses for the last century, will always continue our tradition of reliability, integrity and trust.

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STATE OF INDIANA
INDIANA UTILITY REGULATORY COMMISSION

**In the Matter of the Petition of Indiana
Bell Telephone Company, Inc. d/b/a
Ameritech Indiana, Pursuant to I.C. 8-1-2-61,
For a Three-Phase Process for Commission
Review of Various Submissions of
Ameritech Indiana to Show Compliance with
Section 271(c) of the Telecommunications
Act of 1996.**

Cause No. 41

AFFIDAVIT OF SHERRY LICHTENBERG

On Behalf of WorldCom, Inc.

December 11, 2002

1. My name is Sherry Lichtenberg. My business address is 1133 19th St., NW, Washington, DC 20036. I am the Senior Manager for Operational Support Systems Interfaces and Facilities Development for the MCI Group. My responsibilities include the management of local entry preparation and local support processes across the United States. I have participated in third party testing in the Verizon, BellSouth, SWBT, Qwest, and Ameritech regions. I have led the MCI local entry teams across the country, including negotiating with the ILECs, management of the OSS interface process, and the resolution of issues related to OSS interfaces and customer support processes.

2. I have participated in collaboratives and testing across the SBC/Ameritech region. I have twenty-one years experience in the telecommunications field – six years with MCI in Mass Markets, Local Product Development, Marketing, and OSS support and fifteen years at AT&T. My AT&T experience included working on the development of the System 85 and System 75 (major Private Branch Exchanges (“PBXs”)), product marketing and product management in both the large business and federal areas. My special expertise is in testing and requirements analysis.

3. My current job duties include facilitating MCI's interaction with the incumbent local exchange companies (“ILECs”) to establish commercially viable OSS. In addition, I oversee MCI's commercial relationship with the ILECs from the business perspective. My responsibilities include designing and implementing local service testing as well as market entry preparation and

4. I have helped to oversee WorldCom's mass market entry into the local service markets via UNE-P in the Ameritech states of Illinois, Michigan, Ohio, Indiana, and Wisconsin. In addition to these states, WorldCom is providing mass market residential local service in 39 states across the country.

5. The purpose of this affidavit is to respond to the certain paragraphs of the Ameritech Indiana affidavits of Justin Brown (¶¶ 30-41, 52-53), Carol Chapman (¶¶ 4-11, 84-90), Jim Ehr (¶¶ 63-77; 84-99) and John Habeeb (¶¶ 13-25), and to address certain WorldCom concerns with Ameritech's OSS systems. My comments thus relate to Checklist Items 2 and 4, as well as the public interest requirement. It is my understanding that WorldCom will have an opportunity to supplement this information when the BearingPoint OSS test concludes and the BearingPoint report is available, so I will limit my comments on OSS test-related matters and performance metrics for that future submission.

6. My testimony is based on WorldCom's experiences across the five-state SBC/Ameritech region. Since SBC/Ameritech claims that its systems are the same throughout the Ameritech region, issues that appear in any state in the SBC/Ameritech footprint are significant in determining whether SBC/Ameritech's systems are sufficient to support mass market OSS entry.

7. WorldCom entered the local market in Indiana in March 2002 and has seen the same problems here as we have seen in other states in this region, particularly in terms of the manual processes used by SBC/Ameritech to fill CLEC orders and on-going problems with line loss and service provisioning

8. CLEC customers in Indiana continue to experience service difficulties caused by SBC/Ameritech's OSS problems. These problems include a high level of manual processing that results in errors in service provisioning (i.e., the customer does not get the features he ordered), the inability to create a stable process for reporting line losses to CLECs, resulting in double billing and other customer complaints, an on-going problem with missing Service Order Completion information and errors in updating customer service records (CSRs).

SERVICE PROVISIONING ERRORS

9. WorldCom continues to identify problems with customer orders that are completed incorrectly. These include feature problems associated with SBC/Ameritech's implementation of the wrong universal service order codes (USOCs) in its back end service order provisioning systems and problems associated with errors in blocking options. Discussions with SBC/Ameritech personnel have revealed that these problems continue to be the result of manual handling in the SBC/Ameritech service centers.

10. SBC/Ameritech's OSS systems seem particularly prone to errors when a software upgrade or other change is made to the systems, suggesting that OSS development and testing process approved in the Texas and other SWBT state Section 271 applications is not working effectively.

11. SBC/Ameritech informed CLECs on November 20, 2002, that all orders requiring Call Forwarding Numbers (CFNs) provisioned between November 11 and November 15, 2002 were assigned an incorrect forward to

number.¹ This means that every Neighborhood customer whose order was completed during this period had his/her messages diverted to another telephone number rather than to his/her own voice mailbox. These calls and messages were lost, causing significant customer problems. SBC/Ameritech stated in Accessible Letter CLECAM02-508 that the root cause of this problem was an error in passing data from one system to another, claiming that “[t]he CFN was incorrectly generated on some orders for UNE-P because the CFN was not being passed correctly from one system to another. As the error was in a backend process, this impacted LSRs regardless of the LSOR version of the PON.”²

12. The Accessible Letter further notes that SBC/Ameritech wanted to “advise its CLEC customers of this issue so that they would be in a position to appropriately respond to questions from their end users.”³ Ameritech has clearly improved in alerting CLECs to problems caused by errors in their OSS systems but this notification does not provide CLECs with the numbers of orders impacted, the date on which each was corrected, and the corrective action SBC/Ameritech will take going forward to ensure that such problems do not continue. And it certainly does not answer the customer’s most common complaint : “Where did my calls go?”

13. These kinds of problems are particularly damaging to new entrants, because they impact the customer’s first experience with their new

¹ See SBC/Ameritech Accessible Letter CLECAM02-508, issued November 20, 2002 and attached as Exhibit 1.

provider, and can cause a customer to leave a competitor before it has even had an opportunity to provide an alternative to the monopoly service offered by Ameritech Indiana. Accurate provisioning is critical to CLEC customers, particularly when it impacts that customer's ability to receive calls and voice messages. SBC/Ameritech must put fixes in place to ensure that problems such as this one do not continue before CLECs can be assured of an adequate opportunity to compete.

LINE LOSS PROBLEMS

14. Despite on-going proceedings across its region, Ameritech seems to be unable to correct its continuing line loss problems. During the line loss workshop in March 2002, SBC/Ameritech committed to work with interested CLECs to reconcile its listing of CLEC customers to the CLEC's own listing of its customers due to the significant errors in the SBC/Ameritech line loss process. SBC/Ameritech agreed to review its databases (including MOR, ACIS, and the actual switch provisioning records) to determine which customers belonged to which CLECs. This reconciliation process was requested by CLECs and necessitated by SBC/Ameritech's numerous software, hardware and manual errors uncovered at SBC/Ameritech that resulted in missing line loss notifications, line loss notifications sent in error and discrepancies between SBC/Ameritech's internal data bases.

Former Accounts for Which Ameritech Failed to Transmit Line Loss Notifications

15. Some progress has been made on the reconciliation of the WorldCom database with the corresponding SBC/Ameritech database showing which lines SBC/Ameritech thinks belong to WorldCom, but further work remains to be done. After meeting with SBC/Ameritech, WorldCom has discovered that it will need to remove 8,160 lines from its internal database (554 of which were for Indiana customers) because SBC/Ameritech failed to send a line loss for these accounts. Prior to the disclosure that SBC/Ameritech had failed to send the appropriate line loss notifications, and prior to the reconciliation effort, WorldCom continued to bill these 8,160 former customers because WorldCom had not received line loss notification from SBC/Ameritech. The Commission can imagine how damaging this continued billing was to WorldCom's reputation as a new entrant.

***Current Accounts for Which Ameritech
Erroneously Sent Line Loss Notifications***

16. Additionally, WorldCom will need to reactivate billing to end users for 1,521 lines for which SBC/Ameritech had previously erroneously submitted a line loss (24 of which were for Indiana customers). These customers have not been billed since the erroneous line loss was received and may have had problems in obtaining service and support, since WorldCom's records (based on SBC/Ameritech's line loss transactions) showed that the customer had left WorldCom for another carrier.

17. WorldCom will request a second snapshot from SBC/Ameritech for lines in the Ameritech region as of November 30, 2002, or December 31,

2002, depending upon when the further analysis of the first reconciliation has been completed by SBC/Ameritech and WorldCom. WorldCom will again compare this snapshot to what the WorldCom records show regarding which lines should be WorldCom lines as of that date. We are hopeful that the discrepancies found in the second round of reconciliation will be minimal, restoring our faith in the line loss process. Given the on-going problems with the line loss process, this hope may prove to be false.

18. Unfortunately, despite this reconciliation effort and Ameritech's stated focus on improving the line loss process, the Company still appears to be unable to deliver timely and accurate line losses on an on-going basis. On November 12, 2002, SBC/Ameritech announced still another line loss problem to CLECs. According to Accessible Letter CLECAM02-122, "EDI mapping errors that resulted from the expansion of the length of the ECCKT field" caused Line Loss Notifications to be sent to CLECs without an effective date.⁴ Since the effective date is one of the two most critical parts of the line loss notification (the first being the telephone number), this error rendered 100% of the line losses sent to CLECs between 11/11/02 and 11/13/02 useless.

19. As instructed in the Accessible letter, WorldCom immediately contacted its Account Manager to have these line losses reflowed with the effective date populated correctly. Ameritech agreed to do so, but, unfortunately, reflowed the same truncated records, again rendering them useless. Only with

⁴ See SBC/Ameritech Accessible Letter CLECAM02-122, issued November 12, 2002 and attached as Exhibit 2.

the second reflow was Ameritech able to correctly populate this field.

20. Because SBC/Ameritech appears unable to completely eliminate the manual handling that results in a failure to transmit line losses to CLECs, SBC/Ameritech has put additional manual processes in place to capture and resend these losses on a manual basis. This has resulted in SBC/Ameritech sending CLECs emails of missing line loss notifiers that cannot be handled within the standard electronic processes. These emailed notifications are sent sporadically and do not include any indication of the reason for the fallout from electronic processing. The CLEC must address each of these notifiers separately and manually insert them into their systems. WorldCom's process for the receipt and treatment of line losses is fully automated. Manual line loss notifications require additional work on our part and should be eliminated.

21. As this Commission is aware, line losses are a critical part of ensuring that consumers are not double billed for their services. Missing or incorrect line losses result in consumers continuing to be billed for CLEC service after those customers have migrated to another carrier or returned to SBC/Ameritech. Line losses sent for customers who have not left a carrier result in that carrier's inability to respond to customer queries or issues regarding that service. This Commission must not give Ameritech Indiana a positive recommendation on its application for long distance authority until it shows that it can manage the line loss process over the long term, because its ongoing failures demonstrate that Ameritech Indiana has not fulfilled its obligations under Checklist Item 2, relating to the provision of unbundled network elements. The

problems with the line loss process must not be allowed to continue, and the only way to compel SBC/Ameritech to take the actions necessary to rectify the problem is to withhold 271 authority until the issues are resolved.

MISSING SERVICE ORDER COMPLETION NOTIFICATIONS

22. WorldCom began experiencing missing Service Order Completions (SOCs) soon after service was launched in Michigan and Illinois. This problem has continued in Indiana, albeit at a lower level. SBC/Ameritech's on-going problems with late or missing completion notices require WorldCom to track missing completion notices on an on-going basis and open trouble tickets with SBC/Ameritech to attempt to locate the missing notifiers. The root cause of the problem is Ameritech's high reliance on manual processing in its work centers. Because the problem appears to be chronic, WorldCom must invest time and resources in the tracking and investigation of each instance of missing notifiers.

23. To ensure that this problem stays at its current level and does not escalate, WorldCom proactively opens trouble tickets with SBC/Ameritech for each missing notifier so that it can be reflowed to us. The primary root cause of the problem continues to be manual handling errors. There are basic problems associated with the missing SOC's. If Ameritech Indiana has actually completed the order but simply not notified WorldCom that it has done so, WorldCom cannot provide support to the customer at all, since our systems will show that the customer has not yet been transferred to us. If the order has been completed (but the SOC notification is hung up somewhere in the Ameritech systems and

WorldCom is not notified of the completion), WorldCom cannot respond to customer problems or concerns, open trouble tickets via the Ameritech EBTA system, or begin billing the customer for service (even though Ameritech may have begun billing WorldCom for these services). In addition, we will be unable to send subsequent orders to add or remove features or services from the customer's line.

24. Recent discussions with SBC/Ameritech have revealed that the primary reason for the missing Service Order Completions is the failure of SBC/Ameritech's service representatives to notify CLECs that an order has been manually cancelled. This response is especially troubling, since SBC/Ameritech had informed WorldCom many months ago that enhanced training in the LSC had resulted in new processes meant to correct this problem. Apparently, however, as CLEC competition has grown, these procedures have been abandoned. SBC/Ameritech has promised to "retrain" its representatives once again, but this problem, in addition to the on-going provisioning errors and described earlier, shows that SBC/Ameritech's systems still need work in order to support an on-going level of competitive activity.

Review of Importance of Electronic SOC Notices

25. Electronic SOC notices are critical, because as a practical matter, opening the markets to competition includes ensuring that WorldCom has the ability to exchange order information with Ameritech Indiana in a fully automated manner. This means that WorldCom and Ameritech Indiana exchange electronic information, in an industry-standard, EDI format, on the provisioning

and status of local orders. Before rolling out our local product in the Ameritech region WorldCom spent significant resources developing and testing an automated ordering system to exchange EDI messages with Ameritech entities for local transactions. WorldCom designed its systems to talk to Ameritech's systems in a timely, efficient manner, and to track the life cycle of every local order we submit to Ameritech.

26. Ameritech Indiana's failure to send WorldCom the actual electronic notices prohibits WorldCom from activating and processing customer orders. Ameritech's noncompliance in this regard should not be overlooked — it has impaired and continues to impair WorldCom's local service offerings. Despite Ameritech Indiana's current "band-aid" approach to fixing this problem through manual rework and undefined "software fixes," this issue continues to create a real problem for WorldCom's business and Indiana customers.

27. These OSS-related issues all indicate Ameritech Indiana's inability to meet the requirements of Checklist Item 2, relating to the provision of unbundled network elements.

LINE SPLITTING

28. Line splitting permits an end-user customer to obtain his/her DSL service from one provider, and voice service from another, over the same (UNE-P) loop. Ameritech Indiana continues to prevent CLECs from migrating customers with DSL to UNE-P by rejecting any order to migrate a customer that has DSL, regardless of who provides that service (including Ameritech's own data affiliates), to a new voice provider. In these cases, the customer has

chosen to migrate his voice service to a CLEC, apparently without knowing that he will lose his data service if he does so. Today, Ameritech Indiana simply rejects these orders, leaving it to the CLEC to inform the customer that he/she cannot take advantage of competition in Indiana. In this year alone, Ameritech has so far improperly rejected orders for over 400 Indiana residents who had data on their line, thus preventing these Indiana residents from obtaining WorldCom local voice service.

29. Ameritech Indiana's obligations with respect to this issue are under consideration in Phase II of IURC Cause No. 40611-S1, in which I was a witness. The parties are currently awaiting a Phase II order that will address Ameritech Indiana's obligations to permit line-splitting and the pricing for that service. I have attached a copy of my April 2, 2002 testimony from IURC Cause No. 40611-S1 as Exhibit 3 to this affidavit. I have also attached a copy of my reply affidavit regarding line-splitting issues from the Wisconsin 271 proceeding,⁵ filed just a few days ago, as Exhibit 4 to this affidavit. These documents summarize WorldCom's positions on the issue and I will reserve further comment until after the issuance of the Phase II order in IURC Cause No. 40611-S1.

30. One matter that has transpired since I testified in Cause No. 40611-S1 is that as a result of litigation regarding DSL in Michigan, Ameritech Michigan has promised to "comply" with a Michigan order requiring customers to

⁵ Public Service Commission of Wisconsin Docket No. 6720-TI-170, *Petition of Wisconsin Bell, Inc. for a Section 271 Checklist Proceeding*.

be migrated to UNE-P even if they have DSL on their line.⁶ But, as discussed in Exhibit 4, Ameritech Michigan's purported "compliance plan" is not compliance at all. Rather than engage in good faith negotiations with CLECs to determine how to modify its OSS and that of its data affiliates so as to allow customers to migrate their voice service without losing dial tone or their DSL service, Ameritech Michigan has decided to migrate the customer to the voice CLEC and simply remove the DSL service from the customer's line. This will result in significant customer dissatisfaction and could have significant negative consequences to CLECs.

31. Ameritech Michigan's compliance filing states that it will now migrate customers to UNE-P even if they have DSL, but that prior to the migration, the customer will be disconnected from their DSL provider.⁷ Since at least some customers will be "surprised" by this loss of data service, Ameritech Michigan has requested that CLECs "indemnify" it against customer complaints.⁸ It is technically feasible for Ameritech Michigan to accomplish this migration without disrupting either the customer's DSL or voice service; it simply chooses not to. The reason is clear: According to page 6 of SBC's August 13, 2002

⁶ Opinion and Order, Michigan Public Service Commission Case No. U-12320, *In the matter, on the Commission's own motion, to consider Ameritech Michigan's compliance with the competitive checklist in Section 271 of the federal Telecommunications Act of 1996* (October 3, 2002) ("MI Order"), available at: <http://www.cis.state.mi.us/mpsc/orders/comm/2002/u-12320j.pdf>; and the order of December 16, 2001, pages 7-12, available at: <http://www.cis.state.mi.us/mpsc/orders/comm/2001/u-12320g.pdf>.

⁷ SBC Ameritech Michigan's Implementation Plan in Compliance with October 3, 2002 Opinion and Order, *In the matter, on the Commission's own motion, to consider Ameritech Michigan's compliance with the competitive checklist in Section 271 of the federal Telecommunications Act*, Case U-12320 (November 4, 2002), page 5.

⁸ *Id.* at p. 4.

Second Quarter Investor briefing (available on-line at http://www.sbc.com/investor_relations/financial_and_growth_profile/investor_briefings/0,5931,284,00.html), "DSL also generates value by helping reduce wireline churn. *The churn rate for SBC residential customers with DSL is 75% less than for those without DSL*" (emphasis added). Of course, "reducing churn" means reducing loss of lines to competitors. Thus, Ameritech seeks to reduce competition by bundling DSL and voice services together and removing customer choice. To add insult to injury, since it is Ameritech Michigan's intent to disconnect the customer's DSL service without informing the customer, it has had the audacity to include provisions in its compliance filing that require CLECs to "indemnify" it against customer complaints.

32. Should a customer want to migrate his service to the CLEC and retain DSL, he will first have to contact both Ameritech Michigan and his DSL provider to remove the DSL from his line. He can then migrate his service to the CLEC and add DSL after that order completes. This process ensures that the customer will be without his DSL service for at least some period of time, delays the migration process, and requires the customer to change his email address and in many cases buy and install a new DSL modem. Clearly, few customers will take advantage of such an offering.

33. SBC/Ameritech must not be allowed to use DSL to ensure that its voice customers do not move to a CLEC. Ameritech's refusal to allow customers to choose their voice carrier if they also want to have an Ameritech subsidiary provide DSL on their line is anti-competitive and forces customers to choose

between voice competition and high speed data services. SBC/Ameritech's policy (including the OSS process documented in its Michigan compliance filing) forces customers either to migrate the voice line to the CLEC and then order DSL from another source, or simply stay on the Ameritech voice platform. Thus, SBC/Ameritech is using DSL as a means of freezing local service, despite the fact that the customer wants to move his or her voice service to a competitive provider.

33. This conduct on the part of SBC/Ameritech is anticompetitive as it gives customers the Hobson's choice of either migrating to his chosen voice carrier and losing his data service, or keeping his data service and not obtaining his chosen voice carrier. SBC/Ameritech should not be allowed to tie its voice service to its data service in this way, even though its August 13, 2002 Second Quarter Investor Briefing demonstrates that this is precisely its intent.

34. The Michigan Commission has stated on no uncertain terms that Ameritech Michigan's conduct with respect to line splitting will impact the Commission's recommendations on Ameritech Michigan's 271 application.⁹ This Commission should do the same, and find that absent a change of policy that would permit consumers to freely change their voice service and still retain their DSL service, that this Commission will not make a positive recommendation on Ameritech Indiana's application for long-distance authorization because Ameritech Indiana cannot meet its obligations under Checklist Item 4 or the public interest requirement. To rule otherwise would effectively allow Ameritech

to bind the local customer to Ameritech Indiana's voice service through blatantly anti-competitive means.

OSS for Line Splitting

35. Currently, the only method available to CLECs to convert from line sharing (where Ameritech Indiana is the voice provider and a data provider, including an Ameritech affiliate, is providing DSL service over the same line) to line splitting involves the issuance of three Local Service Requests (LSRs). The steps involved in this process are as follows:

(1) The CLEC issues an order to disconnect the HFPL. This is basically a records change to stop billing, and involves no physical work. This provides loss notification to the data CLEC.

(2) The CLEC issues an order to establish reuse of the unbundled xDSL loop. Ameritech's business rules require the CLEC to provide CFA (Carrier Facility Assignment) information on the order to make sure that the entity issuing this order has coordinated with the data CLEC, since only the data CLEC would have this information. The CFA does not appear on the Customer Service Record due to a business decision made by Ameritech.

(3) The CLEC issues an order for an ULS-ST port with CFA. Again, the CFA is only necessary because of an Ameritech business rule.

45. This multiple order process for changing from line sharing to line splitting over UNE-P will likely cause outages. Ameritech should not be allowed to have a multiple order process for orders that disconnect and reconnect lines in

⁹ See MI Order of October 4, 2002, at p. 15.

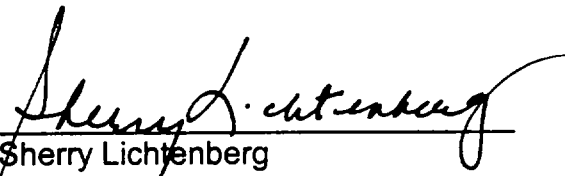
this type of migration.

46. CLECs have proposed a streamlined, single-order process for line splitting. In the Michigan Commission's line-splitting collaborative, the CLECs made a joint submission on how Ameritech could handle line splitting over UNE-P. The Michigan line splitting collaborative was ordered by the Michigan PSC as part of the presently pending Ameritech Michigan 271 docket in Case No. U-12320. This joint CLEC position, which is markedly different from SBC/Ameritech's, is attached as Exhibit SL-1 to Exhibit 3 to this affidavit. SL-1 reviews a number of different line splitting scenarios and is something that could also be modified and adopted for Indiana (with certain changes such as the applicable pricing to reflect the results of the present Indiana costing docket). The Commission is currently considering this proposal in Phase II of IURC Cause No. 40C11 C1, and I will reserve further comment until that order issues.

36. This concludes my affidavit.

Further affiant sayeth not.


I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.


Sherry Lichtenberg

STATE OF

COUNTY OF

Subscribed and sworn to before me
This 20th day of November, 2002.


Notary Public

Capricia Galloway
Notary Public, District of Columbia
My Commission Expires 07-15-2006

**BEFORE THE
INDIANA UTILITY REGULATORY COMMISSION**

IN THE MATTER OF THE COMMISSION)	
INVESTIGATION AND GENERIC PROCEEDING)	
ON AMERITECH INDIANA'S RATES FOR)	
INTERCONNECTION, SERVICE, UNBUNDLED)	CAUSE NO. 40611-
ELEMENTS, AND TRANSPORT AND)	
TERMINATION UNDER THE)	PHASE II
TELECOMMUNICATIONS ACT OF 1996 AND)	
RELATED INDIANA STATUTES)	

**REBUTTAL TESTIMONY OF SHERRY LICHTENBERG
ON BEHALF OF WORLDCOM, INC.**

April 2, 2002

1 **Q. PLEASE STATE YOUR NAME, BY WHOM YOU ARE EMPLOYED,**
2 **YOUR BUSINESS ADDRESS AND YOUR POSITION.**

3 **A.** My name is Sherry Lichtenberg. My business address is 701 S. 12th St.,
4 Arlington, Virginia 22202. I am employed by WorldCom, Inc., (referred to
5 herein as either "MCI" or "WorldCom"). I am part of the MCI local services
6 team, where I am Senior Manager for Operations Support Systems Interfaces and
7 Facilities Testing and Development. MCI is the WorldCom business unit that
8 provides long distance, internet, and local service to residential and small
9 business customers.

10
11 **Q. PLEASE BRIEFLY DESCRIBE YOUR TELECOMMUNICATIONS**
12 **EXPERIENCE AND PRESENT DUTIES.**

13 **A.** I have twenty years experience in the telecommunications field – five years with
14 MCI in Mass Markets, Local Product Development and Marketing, and fifteen
15 years at AT&T. My AT&T experience included working on the development of
16 the System 85 and System 75 (major Private Branch Exchanges ("PBXs")),
17 product marketing and product management in both the large business and federal
18 areas. My special expertise is in testing and requirements analysis.

19
20 My current job duties include facilitating MCI's interaction with the incumbent
21 local exchange companies ("ILECs") to establish commercially viable OSS. In
22 addition, I oversee MCI's commercial relationship with the ILECs from the

business perspective. My responsibilities include designing and implementing local service testing as well as market entry preparation and support.

I have helped to oversee MCI's mass market entry into the local service markets via UNE-P in the Ameritech states of Indiana, Illinois, Michigan, Ohio, and Wisconsin. In addition to these states, MCI is providing mass market residential local service in New York, Texas, Pennsylvania, Florida, California, and Georgia, and I helped to oversee MCI's entry in these states as well.

Q. HAVE YOU TESTIFIED PREVIOUSLY BEFORE THE INDIANA UTILITY REGULATORY COMMISSION?

A. No. However, I have testified or presented comments on a variety of topics in commission dockets and arbitrations in Alabama, Florida, Georgia, Illinois, Kentucky, Massachusetts, Michigan, New Jersey, New York, North Carolina, Ohio, Pennsylvania, and Tennessee. I have also filed testimony with the Federal Communications Commission.

Q. PLEASE DESCRIBE THE STEPS YOU TOOK TO PREPARE THIS TESTIMONY.

A. In addition to my work in other states, I reviewed the testimony of Carol Chapman, filed by Ameritech Indiana in this docket, as well as various materials from Michigan. I have also consulted with counsel.

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

A. I will address the topic of line splitting. In particular, I draw on MCI's experience in Michigan and Illinois in responding to Ameritech's testimony on this issue. Under the Ameritech version of line splitting, Ameritech has refused to process orders for several thousand MCI local service customers who merely wanted to change their voice provider from Ameritech to MCI without disturbing the shared voice and data arrangement on the line. For example, for the months of January and February 2002 in Illinois alone, Ameritech rejected 778 such orders from MCI. MCI has only just recently begun to enter the Indiana UNE-P market, but our experience thus far is that Ameritech is also rejecting these types of orders in Indiana.

Q. PLEASE EXPLAIN THE NATURE OF THESE REJECTED ORDERS.

A. These orders involve the situation in which the customer presently has Ameritech for voice service and a data CLEC (which could include Ameritech's own data affiliate) for DSL service. MCI has issued orders for simple migration of the voice service (while leaving the data service intact), and to provide the customer voice service via UNE-P. It is very important to MCI that customers of this type be automatically migrated to MCI just like other voice customers. While I am not an attorney, I understand that WorldCom's brief will explain the status of line splitting and why the Commission should reject Ameritech's "line splitting" policy as set forth in the testimony of Carol Chapman, and instead resolve the issue in WorldCom's favor.

69

70 **Q. HAS AMERITECH RECENTLY CLARIFIED ITS LINE SPLITTING**
 71 **POLICY?**

72 **A.** Yes. Ameritech recently clarified its position at a February 22, 2002 Michigan
 73 line splitting collaborative. It has become clear that Ameritech does not allow line
 74 splitting over UNE-P.

75

76 Basically, Ameritech refuses to allow customers to choose their voice carrier if
 77 they also want to have DSL on their line. They must either migrate the voice line
 78 to the CLEC, and then order DSL from another source, or simply stay on the
 79 Ameritech platform. Thus, Ameritech is using DSL as a means of freezing local
 80 service, despite the fact that the customer wants to move his or her voice service
 81 to a competitive provider. It is clear that CLECs and Ameritech are not close to
 82 resolving this issue voluntarily.

83

84 **Q: DID AMERITECH EXPLAIN THE BASIS FOR ITS POSITION?**

85 **A:** Ameritech essentially stated that it will refuse to allow line splitting where it
 86 provides the data. Ameritech's explanation begins with the assumption that
 87 Ameritech provides the voice service for a certain customer, and AADS/ASI (the
 88 Ameritech data affiliate), using an integrated DSLAM/splitter, provides the HFPL
 89 for DSL transport to an ISP such as Ameritech's affiliate, AIMS (the Ameritech
 90 ISP). AIMS then sells the ISP service to the end user for a monthly charge (such
 91 as \$44.95). In this situation, Ameritech performs billing and maintenance of the

92 ISP, and also serves as the marketing and sales agent for the ISP. Ameritech
93 stated at the collaborative that it has this type of arrangement with 31 ISPs in
94 Michigan and 400 ISPs in the 13 state SBC region. These ISPs include AIMS,
95 AOL, Earthlink and MSN. Ameritech states that is able to provide the billing
96 service for the ISPs because the billing is based on the telephone number (TN).

97
98 Ameritech stated that its processes require that different systems be used and that
99 the service be provisioned via an unbundled loop and unbundled port if the voice
100 provider changes. In Ameritech's parlance, the tracking of the service would be
101 going from ACIS (which is TN-based) to TIRKS (which is circuit ID-based).
102 Typical UNE-P information is ACIS based, but since cross-connects to a
103 collocation area are involved with line splitting, the voice CLEC service would
104 be circuit ID based. This is not a physical change to the circuit but merely a
105 change to the databases in which the customer information is housed and the
106 means by which the circuits are tracked (TN vs circuit ID).

107
108 **Q: DID AMERITECH ADDRESS THE ISSUE OF BILLING IN THE**
109 **CONTEXT OF LINE-SPLITTING?**

110 **A:** Ameritech stated that it presently has no method of issuing a retail xDSL bill
111 where the voice service is not based on TN. It admits that it can issue a bill for
112 someone who only has a calling card or for private line service, but it performs
113 this billing by hand and claims that it cannot ramp up to support billing in this
114 manner for line splitting. (Ameritech also admitted at the Line Loss workshop

115 held March 13-14, 2002 in Hoffman Estates, Illinois that its MORTEL system
116 contains the information for both the circuit ID and telephone number. This
117 indicates to me that Ameritech could readily cross-identify the applicable circuit
118 ID with the telephone number.) Because Ameritech states that it has no method
119 of issuing a bill for the ISP where line splitting over UNE-P is used, AADS/ASI
120 will refuse to provide data service on the loop where there is CLEC voice service.
121 Ameritech has also bundled its xDSL data service with the condition that the
122 retail customer also accept Ameritech voice service. Ameritech stated that the
123 terms and conditions for the xDSL as set forth on Ameritech's web site spell this
124 out.

125
126 **Q: WILL AMERITECH AT LEAST PROVIDE STAND-ALONE DSL**
127 **SERVICE?**

128 **A:** Ameritech even refuses to provide stand-alone xDSL service because it claims
129 that such a service is not economical. Thus, even if we work out the logistics of
130 implementing line splitting with UNE-P, we will not see it implemented to any
131 significant extent in the near term, since Ameritech will stop providing xDSL
132 service to the customer if line splitting is involved. This prospective conduct on
133 the part of Ameritech is anticompetitive in that it forces customers to make the
134 Hobson's choice of either migrating to their chosen voice carrier and losing their
135 data service, or keeping their data service and being unable to take advantage of
136 changing their voice service to a competitive carrier. Ameritech should not be
137 allowed to tie its voice service to its data service in this way. To rule otherwise

would effectively allow Ameritech to freeze the local customer to its voice service.

Q. MS. CHAPMAN STATES AT PAGE 41 OF HER DIRECT TESTIMONY THAT AMERITECH HAS COMMITTED TO INTRODUCE A SINGLE LSR ORDER PROCESS FOR LINE SPLITTING. CAN YOU COMMENT ON THIS?

A. Yes. Ameritech insists on using a *three* order process for converting line sharing to line splitting, and claims that it will not be possible to institute a *one* order process this calendar year due to other priorities (such as a 13 state uniform interface, LSOG 5 release, etc.). The steps involved in this three order process are as follows:

(1) The CLEC issues an order to disconnect the HFPL. This is basically a records change to stop billing, and involves no physical work. This provides loss notification to the data CLEC.

(2) The CLEC issues an order to establish reuse of the unbundled xDSL loop. Ameritech's business rules require the CLEC to provide CFA (Carrier Facility Assignment) information on the order to make sure that the entity issuing this order has coordinated with the data CLEC, since only the data CLEC would have this information. The CFA does not appear on the Customer Service Record due to a business decision made by Ameritech.

(3) The CLEC issues an order for an UL9-9T port with CFA. Again the CFA

is only necessary because of an Ameritech business rule.

This multiple order process for changing from line sharing to line splitting over UNE-P will likely cause outages. Ameritech should not be allowed to have a multiple order process for orders that disconnect and reconnect lines in this type of migration.

Q. HAVE CLECS PROPOSED TO AMERITECH A DIFFERENT METHOD TO ADDRESS THE LINE SPLITTING ISSUE?

A. Yes. In the Michigan Commission's line-splitting collaborative, the CLECs made a joint submission on how Ameritech could handle line splitting over UNE-P. The Michigan line splitting collaborative was ordered by the Michigan PSC as part of the presently pending Ameritech Michigan 271 docket in Case No. U-12320.¹ This joint CLEC position, which is markedly different from Ameritech's, is attached hereto as Exhibit ____ (SL-1). This exhibit reviews a number of different line splitting scenarios and is something that could also be modified and adopted for Indiana (with certain changes such as the applicable pricing to reflect the results of the present Indiana costing docket). The Commission should resolve the proper processes to be used with respect to line splitting over UNE-P and should either adopt the CLEC positions as submitted in Michigan, or order a collaborative or workshop (with dispute resolution by the Commission) to resolve

183 these matters.

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186 **Q. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?**

187 **A. Yes.**

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¹ See pages 7 through 12 of the MPSC order of December 20, 2001, available at:
<http://cls.state.md.us/mpsc/orders/comm/2001/a-12320g.pdf>.

MICHIGAN PROCEDURES FOR UNE-P LINE SPLITTING

This document reflects the input of the provider companies who have been consistently active in this collaborative including MCI WorldCom, LDMI, and AT&T, and reflects a melding of individual company positions. It is proposed for the purpose of responding to Ameritech Michigan's line sharing/line splitting scenarios and for collaborating in response to the MPSC's orders in Case No. U-12320. Each party reserves the right to withdraw from this proposal and/or take an individual company position that differs from this proposal. No party is waiving its right to assert that Ameritech Michigan's current proposals are not in compliance with state and/or federal law.

1. These procedures would apply to the following situations:

A. Customer is presently line sharing (Ameritech voice, with data on the line from Ameritech, an Ameritech affiliate, or a data CLEC) and the customer desires to switch the voice service to a CLEC serving via UNE-P.

B. Customer is presently line splitting via UNE-P (CLEC voice via UNE-P, with data on the line from Ameritech, an Ameritech affiliate, or a data CLEC) and desires to switch the voice to a different CLEC.

C. Customer is presently line splitting via UNE-P (CLEC voice via UNE-P, with data on the line from Ameritech, an Ameritech affiliate, or a data CLEC) and desires to return to Ameritech for voice so that the service becomes line sharing.

D. Customer presently has UNE-P voice from a CLEC and wants to add data where the data would be from Ameritech, an Ameritech affiliate, or a data CLEC.

E. Customer is presently line splitting via UNE-P (CLEC voice via UNE-P, with data on the line from Ameritech, an Ameritech affiliate, or a data CLEC) and wants to drop the data service.

F. Customer is presently line splitting via UNE-P (CLEC voice via UNE-P, with data on the line from Ameritech, an Ameritech affiliate, or a data CLEC) and the data CLEC wants to discontinue the data service.

G. Customer is presently line splitting via UNE-P (CLEC voice via UNE-P, with data on the line from Ameritech, an Ameritech affiliate, or a data CLEC) and the voice CLEC wants to discontinue the voice service.

H. Customer is presently line splitting via UNE-P (CLEC voice via UNE-P, with data on the line from Ameritech, an Ameritech affiliate, or a data CLEC) and the customer wants to discontinue the voice service.

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I. Customer is presently line splitting via UNE-P (CLEC voice via UNE-P, with data on the line from Ameritech, an Ameritech affiliate, or a data CLEC) and wants to change the provider of the data service.

2. To the extent to which UNE-P voice and data CLECs choose by mutual agreement to follow different procedures, they are free to do so upon entering into a signed agreement outlining those procedures. In the absence of any such signed agreement between the UNE-P voice provider and the data CLEC, these Procedures control.

3. **Outline of procedures for the scenarios set forth above:**

A. Customer is presently line sharing (Ameritech voice, with data on the line from Ameritech, an Ameritech affiliate, or a data CLEC) and the customer desires to switch the voice service to a CLEC serving via UNE-P, thus resulting in line splitting via UNE-P.

The procedure here should be that the voice CLEC should be able to send a single order to Ameritech and Ameritech will migrate the voice service to that CLEC. Ameritech shall send notification of the change in voice carrier to the data CLEC, including the name of the UNE-P voice provider and a contact telephone number at that company. Ameritech shall also provide to the UNE-P voice provider the name of the data provider and a contact telephone number at that company as well as the Circuit ID.

Trouble reports, outages and procedures for handling CFA information would be handled as set forth in the "Trouble Reports and Outages" section below.

If the data CLEC decides to discontinue data service as a result of the migration resulting in line splitting via UNE-P, then the procedures in Scenario F below would be followed. These procedures do not address whether or under what circumstances it would be lawful or anti-competitive for a company to disconnect the data service upon a request by the customer to change the company providing the voice service.

Non-recurring charges: Migration charge of \$0.35

Monthly charges:	Loop	(A) 8.47	(B) 8.73	(C) 12.54
	HFPL Loop adder*	(A) 1.79	(B) 1.79	(C) 1.79
	Loop Cross-Connect	(A) 0.13	(B) 0.13	(C) 0.13
	Port	(A) 2.53	(B) 2.53	(C) 2.53

These charges are to be assessed to the cost causer. Under this scenario, this means that the voice CLEC is assessed the Migration charge of \$0.35, and the Loop and Port charges. SBC/Ameritech is to assess the data CLEC the HFPL Loop adder and the Loop Cross-Connect charges.

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* The HFPL Loop adder is only applicable where the data CLEC orders a conditioned loop. If the data CLEC orders a plain loop in the hopes that this will suffice for its data purposes, then the data CLEC does so at its own risk that Ameritech may put fiber on the loop or otherwise not take steps to preserve the xDSL capability of the loop. Where a plain loop is ordered, the HFPL Loop adder shall not be assessed.

B. Customer is presently line splitting via UNE-P (CLEC voice via UNE-P, with data on the line from Ameritech, an Ameritech affiliate, or a data CLEC) and desires to switch the voice to the UNE-P voice service of a different CLEC.

The migration of the voice service would be handled as any other migration of UNE-P voice service would be handled no differently. After the migration, however, Ameritech would provide information as to the change in voice carrier to the data CLEC, including the name of the present UNE-P voice provider and a contact telephone number at that company. Ameritech would also inform the voice provider that there is data on the line and would provide the name of the data company along with a contact telephone number at that company as well as the Circuit ID.

Trouble reports, outages and procedures for handling CFA information would be handled as set forth in the "Trouble Reports and Outages" section below.

If the data CLEC decides to discontinue data service as a result of the migration resulting in line splitting via UNE-P, then the procedures in Scenario F below would be followed.

Non-recurring charges: Migration charge of \$0.35

Monthly charges:	Loop	(A) 8.47	(B) 8.73	(C) 12.54
	HFPL Loop adder*	(A) 1.79	(B) 1.79	(C) 1.79
	Loop Cross-Connect	(A) 0.13	(B) 0.13	(C) 0.13
	Port	(A) 2.53	(B) 2.53	(C) 2.53

These charges are to be assessed to the cost causer. Under this scenario, this means that the voice CLEC is assessed the Migration charge of \$0.35, and the Loop and Port charges. SBC/Ameritech is to assess the data CLEC the HFPL Loop adder and the Loop Cross-Connect charges.

* The HFPL Loop adder is only applicable where the data CLEC orders a conditioned loop. If the data CLEC orders a plain loop in the hopes that this will suffice for its data purposes, then the data CLEC does so at its own risk that Ameritech may put fiber on the loop or otherwise not take steps to preserve the xDSL capability of the loop. Where a plain loop is ordered, the HFPL Loop adder shall not be assessed.

C. Customer is presently line splitting via UNE-P (CLEC voice via UNE-P, with data on the line from Ameritech, an Ameritech affiliate, or a data CLEC) and desires to return to Ameritech for voice so that the service becomes line sharing.

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The migration of the voice service would be handled as any other migration of UNE-P voice service from the CLEC to Ameritech for winbacks. After the migration, however, Ameritech shall provide information as to the change in voice carrier to the data CLEC. Procedures applicable to line sharing would then apply.

No charges to the voice CLEC. Billing rules for line sharing apply after the migration back to Ameritech.

D. Customer presently has UNE-P voice from a CLEC and wants to add data where the data would be from Ameritech, an Ameritech affiliate, or a data CLEC.

Voice service is UNE-P both before data is provided and after data is provided. If UNE-P service existed prior to the addition of the data, the UNE-P service also exists after the addition of the data. Some central office rewiring may be required to incorporate the data CLEC's splitter and DSLAM after the data CLEC submits the order. There is no requirement that the voice or data CLEC must purchase a new loop if the existing loop is already data capable.

Before the addition of the data, Ameritech will provide information as to the identity of the data CLEC to the voice CLEC, including providing a contact telephone number, and will provide notice to the voice CLEC of any anticipated outages due to the rewiring. Also, before the addition of the data, Ameritech will provide notice to the data provider as to the identity of the voice provider, including a contact telephone number of the voice provider.

Ameritech will provide notice to both the voice provider and data provider when the data has been added to the line. Ameritech will then provide to the voice CLEC the Circuit ID. The data CLEC should be able to use a one order process via EDI for ordering using telephone number only (no circuit ID needed on the order). This one order process should be implemented immediately even if Ameritech can only do so at present through manual handling of the orders on its side of the interface. Reuse of the loop if possible. Reuse of the Port and TN. Ordering process should be similar to adding data to an Ameritech voice customer, except as set forth above.

Trouble reports, outages and procedures for handling CFA information would be handled as set forth in the "Trouble Reports and Outages" section below.

Non-recurring charges: Loop installation service order \$3.16
 Mechanized Loop Qualification 0.10
 Possible loop qualification charges

Monthly charges:	Loop	(A) 8.47	(B) 8.73	(C) 12.54
	HFPL Loop adder*	(A) 1.79	(B) 1.79	(C) 1.79
	Loop Cross-Connect	(A) 0.13	(B) 0.13	(C) 0.13
	Port	(A) 2.53	(B) 2.53	(C) 2.53

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These charges are to be assessed to the cost causer. Under this scenario, this means that the voice CLEC is assessed the Loop and Port charges. SBC/Ameritech is to assess the data CLEC the NRCs, the HFPL Loop adder and the Loop Cross-Connect charges.

* The HFPL Loop adder is only applicable where the data CLEC orders a conditioned loop. If the data CLEC orders a plain loop in the hopes that this will suffice for its data purposes, then the data CLEC does so at its own risk that Ameritech may put fiber on the loop or otherwise not take steps to preserve the xDSL capability of the loop. Where a plain loop is ordered, the HFPL Loop adder shall not be assessed.

E. Customer is presently line splitting via UNE-P (CLEC voice via UNE-P, with data on the line from Ameritech, an Ameritech affiliate, or a data CLEC) and wants to drop the data service.

Customer must call the data provider and request that the data provider cancel the service. Data Provider then sends an order to Ameritech to disconnect the circuit. Ameritech then notifies the voice provider of the intent to disconnect the data portion of the service and provides the estimated time during which the voice service will be disrupted. Ameritech will provide any updates if this estimated time changes. Ameritech will provide notice to the voice CLEC when the voice service has been restored.

Non-recurring charges: Disconnect of cross-connects and reconnection of ordinarily combined Loop/Port cross-connect: \$3.18

Monthly charges:	Loop	(A) 8.47	(B) 8.73	(C) 12.54
	Port	(A) 2.53	(B) 2.53	(C) 2.53
	Cross Connect	(A) 0.13	(B) 0.13	(C) 0.13

These charges are to be assessed to the cost causer. Under this scenario, this means that the voice CLEC is assessed the Loop and Port charges. SBC/Ameritech is to assess the data CLEC the NRCs.

F. Customer is presently line splitting via UNE-P (CLEC voice via UNE-P, with data on the line from Ameritech, an Ameritech affiliate, or a data CLEC) and the data CLEC wants to discontinue the data service.

After data CLEC confirms with customer that the data service will be discontinued (based on nonpayment or other reason), data CLEC then sends an order to Ameritech to disconnect the high frequency portion of the circuit. Ameritech then notifies the voice provider of the intent to disconnect the data portion of the service and provides the estimated time during which the voice service will be disrupted. Ameritech will provide any updates if this estimated time changes. Ameritech will provide notice to the voice CLEC when the voice service has been restored.

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These procedures do not address whether or under what circumstances it would be lawful or anti-competitive for a company to disconnect the data service upon a request by the customer to change the company providing the voice service.

Non-recurring charges: Disconnect of cross-connects and reconnection of ordinarily combined Loop/Port cross-connect: \$3.18

Monthly charges:	Loop	(A) 8.47	(B) 8.73	(C) 12.54
	Port	(A) 2.53	(B) 2.53	(C) 2.53
	Cross Connect	(A) 0.13	(B) 0.13	(C) 0.13

These charges are to be assessed to the cost causer. Under this scenario, this means that the voice CLEC is assessed the Loop, Port and Cross Connect charges. SBC/Ameritech is to assess the data CLEC the NRCs.

G. Customer is presently line splitting via UNE-P (CLEC voice via UNE-P, with data on the line from Ameritech, an Ameritech affiliate, or a data CLEC) and the voice CLEC wants to discontinue the voice service.

Voice CLEC sends an order to Ameritech to disconnect the voice portion of the circuit. Ameritech then notifies the data CLEC provider of the intent to disconnect the voice portion of the service and provides notice to the data provider that this will also result in the high frequency portion of the loop being cancelled unless if data CLEC agrees to pay 100% of the loop recurring monthly charges. Ameritech will provide any updates if this estimated time changes.

H. Customer is presently line splitting via UNE-P (CLEC voice via UNE-P, with data on the line from Ameritech, an Ameritech affiliate, or a data CLEC) and the customer wants to discontinue the voice service.

After voice CLEC confirms with customer that the voice service will be discontinued, voice CLEC sends an order to Ameritech to disconnect the voice portion of the circuit. Ameritech then notifies the data CLEC provider of the intent to disconnect the voice portion of the service and provides notice to the data provider that this will also result in the high frequency portion of the loop being cancelled unless if data CLEC agrees to pay 100% of the loop recurring monthly charges. Ameritech will provide any updates if this estimated time changes.

I. Customer is presently line splitting via UNE-P (CLEC voice via UNE-P, with data on the line from Ameritech, an Ameritech affiliate, or a data CLEC) and wants to change the provider of the data service.

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Handled similar to Scenario D above. Voice service is UNE-P both before data is provided and after data is provided. If UNE-P service existed prior to the addition of the data, the UNE-P service also exists after the addition of the data. Some central office rewiring may be required to incorporate the new data CLEC's splitter and DSLAM. There is no requirement that the voice or data CLEC must purchase a new loop if the existing loop is already data capable.

The new data provider issues an order to Ameritech to put data service on the loop. Before the addition of the new data provider, Ameritech will provide information as to the identity of the new data CLEC to the voice CLEC, including providing a contact telephone number, and will provide notice to the voice CLEC of any anticipated outages due to the rewiring. Ameritech will also let the "losing" data CLEC know of the impending loss of data service. Also, before the addition of the new data provider, Ameritech will provide notice to the new data provider as to the identity of the voice provider, including a contact telephone number of the voice provider.

Ameritech will provide notice to both the voice provider and new data provider when the new data has been added to the line. Ameritech will then provide to the voice CLEC the Circuit ID. Ameritech will also provide a line loss report to the "losing" data provider.

Trouble reports, outages and procedures for handling CFA information would be handled as set forth in the "Trouble Reports and Outages" section below.

Non-recurring charges: Loop installation service order \$3.16

Monthly charges:	Loop	(A) 8.47	(B) 8.73	(C) 12.54
	HFPL Loop adder	(A) 1.79	(B) 1.79	(C) 1.79
	Loop Cross-Connect	(A) 0.13	(B) 0.13	(C) 0.13
	Port	(A) 2.53	(B) 2.53	(C) 2.53

These charges are to be assessed to the cost causer. Under this scenario, this means that the voice CLEC is assessed the Loop and Port charges. SBC/Ameritech is to assess the data CLEC the NRCs, the HFPL Loop adder and the Loop Cross-Connect charges.

4. Trouble Report and Outages

A. If the customer's UNE-P voice service is out or has operational problems while there is line splitting, the customer should be directed to call the voice UNE-P CLEC. The UNE-P CLEC then runs a MLT test to isolate the problem and, if appropriate, issues a trouble ticket to Ameritech which includes the Circuit ID. Ameritech then works the trouble ticket. If any outages or disruptions to the data service is occurring or anticipated, Ameritech shall notify the data provider.

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B. If with line splitting the customer's data service and voice service are out or both have operational problems, then the procedures in Section 4A should be followed.

C. If the customers' data service only is out or has operational problems while there is line splitting, the customer should be directed to call its data provider. The data provider would then work directly with Ameritech to resolve the problem. If any outages or disruptions to the UNE-P voice service is occurring or anticipated, Ameritech shall notify the UNE-P voice provider.

**BEFORE THE
PUBLIC SERVICE COMMISSION OF WISCONSIN**

**Petition of Wisconsin Bell, Inc.
For a Section 271 Checklist
Proceeding**

6720-TI-170

REPLY AFFIDAVIT OF SHERRY LICHTENBERG

On Behalf of WorldCom, Inc.

December 5, 2002

1. My name is Sherry Lichtenberg. My business address is WorldCom, Inc., 1133 19th St., N.W. Washington, DC 20036. I am the Senior Manager for Operational Support Systems Interfaces and Facilities Development for the MCI Group at WorldCom.

2. I am the same Sherry Lichtenberg that filed an initial affidavit in this docket on July 2, 2002.

3. The purpose of my Rebuttal Affidavit is to respond to the Reply and Supplemental Reply Affidavits of John S. Habeeb and Ms. Carol A. Chapman in this proceeding.¹ In particular, I focus on the impact of Ameritech Wisconsin's refusal to continue to provide DSL services to its customers through its data affiliates once those customers take advantage of the availability of competitive voice service by migrating to another carrier that is providing local exchange service via UNE-P. Ameritech Wisconsin has rejected 780 line-splitting orders from WorldCom in Wisconsin since March 2002. I also comment on the OSS changes that would be required to allow this process. It is my understanding that the day before I filed my initial affidavit in this proceeding, the Commission deferred consideration of the OSS-related issues I raised until Phase II of this proceeding, so I will not further comment on those subjects at this time.

4. As I stated in my initial affidavit in this case, Ameritech Wisconsin's refusal to allow customers who subscribe to its data affiliates' (AADS and ASI, for example) DSL offerings to migrate to a CLEC for their voice service while

¹ The Reply Affidavits were filed on August 6, 2002 and admitted into the record on November 1, 2002. The Supplemental Reply Affidavits were filed in conjunction with Ameritech Wisconsin's

keeping their DSL service intact results in locking those customers into Ameritech Wisconsin's voice service and removes their ability to take advantage of competitive voice offerings. These customers want a choice for their voice service and their DSL but are placed in the position of being unable to exercise that choice if they wish to keep their high speed data service. As Mr. Habeeb explains in his August 2, 2002 reply affidavit, this is a "strategic business choice by a provider,"² but one that, in my opinion, is patently designed to ensure that Ameritech Wisconsin does not lose voice market share by supporting competitive offerings. This fact is borne out by a recent statement by SBC management. According to page 6 of SBC's August 13, 2002 Second Quarter Investor briefing (available on-line at http://www.sbc.com/investor_relations/financial_and_growth_profile/investor_briefings/0.5931.284.00.html), "DSL also generates value by helping reduce wireline churn. *The churn rate for SBC residential customers with DSL is 75% less than for those without DSL*" (emphasis added). Of course, "reducing churn" means reducing loss of lines to competitors. Thus, Ameritech Wisconsin seeks to reduce competition by bundling DSL and voice services together and removing customer choice.

5. This decision on Ameritech's part harms consumers by forcing them to abandon their ability to seek the best offering available for their needs. This is a 271 issue, since it results in the limiting of competitive opportunities and disadvantages customers, calling into question not only Ameritech Wisconsin's

² See Habeeb Reply Aff. at ¶ 10

compliance with checklist item 4 (unbundled local loops), but also the public interest element. Customers who have subscribed to the AADS/ASI DSL offering must choose to disconnect that service in order to obtain competitive voice service. And even if they make this choice, they often find their voice migration delayed or even cancelled if they fail to inform both Ameritech Wisconsin and their ISP of their decision to do so.

6. Orders for migration to the competitive voice provider cannot proceed until the customer makes numerous phone calls to their other suppliers to disconnect the HPFL UNE, to change their ISP, and to have their wireline configuration changed not only to physically remove the DSL service, but also to have their customer service record (CSR) updated to show that they are now a voice-only subscriber. Only when this process is completed can these customers re-establish the migration order to the voice CLEC. During this period, they are without their data service and their email is being forwarded to the "dead letter" office. And even when (or if) new service is established, the customer will need a new email address and presumably new equipment for accessing the service.

7. It is not surprising that customers faced with this daunting, complicated, and trouble-fraught process simply choose to keep all of their services with Ameritech Wisconsin (resulting in the "churn" rate being 75% lower when Ameritech Wisconsin's residential customers have DSL service).

8. WorldCom's request in this proceeding is simple and straightforward. If Ameritech Wisconsin seeks a positive Section 271 recommendation from this Commission, its data subsidiaries should be required

to cooperate with CLECs to continue to offer service to customers who want to retain a combination of Ameritech-affiliate DSL service and CLEC voice service. Ameritech Wisconsin should do this without requiring the voice CLEC to partner with a data CLEC or to install its own splitter. The current DSL provider should continue to provide the DSL, even after the voice service has migrated to a competitive carrier.

9. Mr. Habeeb states that providing AADS DSL on CLEC UNE-P lines would require re-writes of the OSS put in place by AADS, Ameritech Wisconsin, and the CLECs,³ but never explains what that OSS is and what business rules and systems would require these modifications. Ameritech Wisconsin has provided no documentation for that OSS (nor discussed it in any collaboratives) so that CLECs, AADS, and Ameritech Wisconsin can assess the changes. And CLECs have not been asked for input on the way in which ordering, billing, and trouble handling could be modified to support offering this service. Given this lack of information, it is impossible to discern what these problems may be, particularly when the CLEC seeks only to migrate the voice portion of a retail voice circuit with AADS DSL to UNE-P. In this case, no changes to the physical configuration of the line would be necessary, and billing could be accomplished either by a direct bill from AADS to the CLEC or credit card billing to the end user.⁴

³ See Habeeb Reply Aff. at ¶ 7

⁴ Mr. Habeeb's reply affidavit does not explain how billing is accomplished for the two CLECs that have apparently successfully negotiated an agreement to "resell" AADS voice service in Wisconsin, perhaps since this "reselling" does not occur in the context of UNE-P. (See Habeeb Reply Aff. at ¶ 5.)

10. As Mr. Habeeb notes in his November 15th supplemental reply affidavit, WorldCom has tried to negotiate such an arrangement with AADS. During a July 17, 2002 discussion with AADS and SBC/Ameritech, WorldCom sought to create a business relationship that would allow WorldCom to provide UNE-P voice service while allowing the customer to keep his/her SBC/Ameritech DSL. During that meeting, the AADS representative stated that it was “considering” the OSS development necessary for such an offer, but reiterated that the Company’s current policy was not to engage in line sharing or line splitting with UNE-P CLECs.

11. As Mr. Habeeb states, WorldCom did not follow up on these initial discussions with SBC regarding the potential for offering SBC/Ameritech DSL with WorldCom UNE-P, although the circumstances under which WorldCom made this decision are a bit different. At the time that WorldCom met with SBC/Ameritech to discuss the potential of offering DSL on UNE-P lines, SBC/Ameritech was quite specific in its statement that it had made the policy decision not to undertake such an offer.

12. Although WorldCom initially agreed to provide a “white paper” elaborating upon its request, the need to prepare such a document was obviated by the detailed nature of WorldCom’s proposal to SBC/Ameritech regarding this service in Michigan, and the discussion that went on at the August 2002 collaboratives in the Wisconsin 271 docket. WorldCom had clearly requested in the July 17th conversation, and in this proceeding, and in proceedings in other states in the SBC/Ameritech footprint, that SBC/Ameritech provide WorldCom

with the ability to migrate existing DSL customers to UNE-P for their voice service, while retaining their DSL with SBC/Ameritech, and without a loss of dial tone or the need to coordinate with the DSL provider. WorldCom stated these facts in the meeting and had done so in earlier correspondence.

13. Moreover, since the scenarios for this transfer matched those that WorldCom filed later in the Michigan line splitting proceeding, WorldCom understood that no separate “white paper” was required, given that its request had already been clearly stated, and that SBC/Ameritech’s response in the Michigan case would provide the needed processes and procedures.

14. When I followed up on the UNE-P DSL issue directly with Mr. Habeeb after the second collaborative in this proceeding, he stated that he was the wrong person with whom to discuss this issue.

15. If the lack of a “white paper” on WorldCom’s request to provide AADS DSL on UNE-P lines was all that was standing in the way of implementing this process, and not Ameritech Wisconsin’s continuing refusal to allow competitors to engage in line-splitting, this continuing challenge to Ameritech Wisconsin’s Section 271 checklist compliance would clearly be unnecessary.

16. Ms. Chapman’s affidavit simply attempts to excuse Ameritech from providing AADS DSL over UNE-P by stating that UNE-P “cannot include elements that do not belong to Ameritech Wisconsin.”⁵ But this is not the case. AADS is a subsidiary of SBC/Ameritech, so the elements used in providing AADS DSL are part of Ameritech and could be provided to CLECs as part of the

⁵ Chapman Reply Aff. at ¶ 30

UNE-P offering. Line splitting can occur with UNE-P if AADS agrees to do so. The loop does not need to be split apart, since the equipment used to provide DSL already exists on the line. Ameritech and AADS simply need to agree that they will continue to provide the DSL service on the high frequency portion of the line when the low frequency, voice portion of the line is migrated to a CLEC. The splitter does not need to be removed and only a billing change is necessary to allow the customer to continue to receive AADS DSL with CLEC voice.

17. It is technically feasible for Ameritech Wisconsin's data affiliate to provide data over the High Frequency Portion of the Loop ("HFPL") when Ameritech Wisconsin is not the underlying provider of voice service to the customer over the Low Frequency Portion of the Loop ("LFPL"). Ameritech Wisconsin and its subsidiary AADS have simply made the decision not to do so.

18. It is technically feasible for Ameritech Wisconsin to convert a customer's service from the UNE-P to line-splitting without temporarily disconnecting the customer's voice service. The in-place splitter and DSLAM simply need to remain in place.

19. No new loop qualification process is required in those instances where the customer is already receiving DSL over the loop. The fact that the loop is capable of supporting DSL has already been established, since DSL is being provided over that loop. All that is needed is agreement between Ameritech Wisconsin, AADS, and the CLEC to provide this arrangement – and it is Ameritech (through its subsidiary AADC) that has refused to provide such an arrangement.

20. While new billing arrangements will need to be negotiated, neither Ameritech Wisconsin nor AADS have provided any explanation as to why this process cannot be put in place simply and effectively. Ms. Chapman states that this is a problem due to issues with the retail billing systems involved and attempts to excuse Ameritech's failure to explain these problems and negotiate solutions by stating that no retail billing personnel were available at the February 22, 2002 line splitting collaborative in Michigan to speak on this issue.⁶ While this is true, it does not mean that such problems cannot be resolved – provided that Ameritech Wisconsin actually *wants* to resolve them.

21. Indeed, in the Michigan line splitting proceeding, CLECs have agreed to use each others' networks without teaming arrangements and to work out billing and other details among themselves. Ameritech Wisconsin simply needs to implement the process that CLECs proposed in Michigan and that I attached to my initial affidavit in this proceeding. Instead, Ameritech's so-called Michigan "compliance plan" seeks to allow Ameritech to unilaterally disconnect the data portion of the line when a customer migrates to a CLEC voice service before that migration takes place.⁷

⁶ Chapman Reply Aff. at ¶ 50

⁷ See SBC Ameritech Michigan's Implementation Plan in Compliance with October 3, 2002 Opinion and Order, *In the matter, on the Commission's own motion, to consider Ameritech Michigan's compliance with the competitive checklist in Section 271 of the federal Telecommunications Act*, Case U-12320 (November 4, 2002), page 5. The "compliance" filing states that "SBC Ameritech Michigan is developing new methods and procedures under which SBC Ameritech Michigan will issue a disconnect order on behalf of the new voice CLEC to disconnect the HPL for the data CLEC." (See Compliance Plan at p. 5). SBC also asks to be indemnified by CLECs for the consequences of such orders should they result in the loss of service to customers. (See Compliance Plan at p. 4).

22. Finally, it is clear from CLEC comments here, in Michigan, and in Texas, that it is SBC and its affiliates that are standing in the way of allowing consumers to choose their voice provider without losing their data service and facing lengthy outages while waiting for it to be re-established. It is those consumers who should be able to choose whether to migrate their voice service to a CLEC without the need to lose their data connectivity, not Ameritech Wisconsin.

23. This Commission should withhold any positive recommendation on Ameritech Wisconsin's Section 271 application unless and until Ameritech Wisconsin agrees to continue to provide DSL on a customer's line when that customer migrates his/her voice service to a UNE-P CLEC, and to do so without the need to disconnect or change anything in that service other than potentially the billing method.

24. This concludes my reply affidavit.



Date: **November 20, 2002**

Number: **CLECAM02-508**

Effective Date: **NA**

Category: **All**

Subject: **(BUSINESS PROCESSES) Incorrect Call Forwarding Number on UNE-P Service Orders**

Related Letters: **NA**

Attachment: **No**

States Impacted: **Ameritech Region**

Response Deadline: **NA**

Contact: **Account Manager**

Conference Call/Meeting: **NA**

This Accessible Letter is being sent to notify CLECs of an issue that SBC has identified and corrected involving Call Forwarding Numbers (CFN) on UNE-P requests. The CFN was incorrectly generated on some orders for UNE-P because the CFN was not being passed correctly from one system to another. As the error was in a backend process, this impacted LSRs regardless of the LSOR version of the PON. The error affected requests received and processed from 11/11/02 through mid day 11/12/02.

A system fix was put into place so that the correct Call Forward Number would be populated from the LSR to the service order, and that fix has been in place since 11/12/02. The issue was believed to be contained because it was thought that all the affected orders had dropped to manual handling at the LSC and subsequently were corrected. However, on Friday 11/15/02, SBC personnel in the provisioning department identified that they were receiving service orders with incorrect Call Forwarding Numbers. These service orders had flowed through SBC systems prior to the fix being applied 11/12/02, without exceptioning to the LSC and were being generated with the incorrect Call Forwarding Number. Between 11/16/02 and 11/19/02, correcting service orders were issued on all affected accounts by SBC to reflect the requested Call Forwarding Numbers as specified by the CLECs on their LSRs. As of November 19, 2002 all of the impacted accounts were corrected. Thus, both the original problem and downstream impacts have been resolved.

SBC wanted to advise its CLEC customers of this issue so that they would be in a position to appropriately respond to questions from their end users.

Date: **November 12, 2002**

Number: **CLECAMS02-122**

Effective Date: **NA**

Category: **OSS**

Subject: **Line Loss Notification Process Errors and Interruption 11/1102 Through 11/13/02**

Related Letters: **NA**

Attachment: **No**

States Impacted: **Ameritech Region**

Response Deadline: **NA**

Contact: **Account Manager**

Conference Call/Meeting: **NA**

Two issues affecting the Conversion Date (CVD) on Line Loss Notifications (LLNs) have been identified. This is to communicate information about the issues and recovery plans.

As a result of the software release implemented November 9, 2002, errors have been noted on EDI 836 LLNs sent to the few customers using the EDI version 5.02. Customers who receive LLNs via LEX or FAX are not impacted.

Version 5.02 is the newest EDI version and the one implemented with the release this past weekend. All SBC states are affected. Facts are as follows:

- Incorrect formatting has caused the CVD to not be accurate on LLNs sent November 11 and the morning of November 12 only. The data in this field should not be relied on. A correction is being tested and planned to be implemented the evening of November 13, 2002.
- Since the information on the LLNs sent November 11 and the morning of November 12 is not totally usable, the LLNs for those customers who receive them in EDI version 5.02 will be held until the correction is deployed.
- Following that, all LLNs from November 11 and 12 for those affected customers will be regenerated and re-sent, and LLNs that were held will be distributed.

A second issue has been detected affecting LLNs sent to customers using version 4.02 of EDI in Ameritech. Facts known at this time regarding this issue are as follows:

- Some LLNs sent since November 11 have not contained information in the CVD field.
- Root cause has not been determined and will be communicated in a subsequent letter.
- All data necessary to regenerate these LLNs is available and these LLNs will be regenerated.

LLNs either held or redistributed will be reflected as late in performance results.

Affected customers may direct their questions to their Account Managers. Coordination of re-flow efforts can be arranged.

STATE OF INDIANA
INDIANA UTILITY REGULATORY COMMISSION

**In the Matter of the Petition of Indiana
Bell Telephone Company, Inc. d/b/a
Ameritech Indiana, Pursuant to I.C. 8-1-2-61,
For a Three-Phase Process for Commission
Review of Various Submissions of
Ameritech Indiana to Show Compliance with
Section 271(c) of the Telecommunications
Act of 1996.**

Cause No. 4

**Affidavit of Edward J. Caputo
On Behalf of WorldCom, Inc.**

**AFFIDAVIT OF EDWARD J. CAPUTO
ON BEHALF OF WORLDCOM**

I. INTRODUCTION AND PURPOSE OF AFFIDAVIT

1. My name is Edward J. Caputo. I am Director of Operator and Directory Services for WorldCom, Inc. ("WorldCom"). My business address is 601 South 12th Street, Arlington, Virginia 22202. I attended the University of Maryland in College Park, Maryland and earned a Bachelor of Science degree in Business Management. I have held management positions in the telecommunications field for the last 11 years. Prior to that, I held management positions in the Information Technology and Finance field. I have had management responsibilities related to operator and directory services at WorldCom and at MCI prior to the MCI/WorldCom merger since 1990.

2. The purpose of this affidavit is to respond to Paragraphs 183-194 of the affidavit of William Deere, and to support WorldCom's position with regard to the status of operator services and directory assistance ("OS/DA") services as unbundled network elements ("UNEs"), and customized routing of OS/DA calls placed by WorldCom's local customers. As discussed in detail below, because Ameritech fails to provide WorldCom with custom routing of OS/DA traffic in the manner requested by WorldCom, Ameritech fails to satisfy the requirements of checklist items 6 (unbundled local switching) and 7

Indiana Utility Regulatory Commission (the "Indiana Commission" or "IURC") should decline to recommend to the Federal Communications Commission ("FCC") that Ameritech Indiana be granted approval to provide in-state, interLATA services in Indiana under Section 271 of the Telecommunications Act of 1996.

II. CUSTOMIZED ROUTING OF CALLS TO OPERATOR SERVICES/DIRECTORY ASSISTANCE (OS/DA)

3. There are two primary issues in dispute with respect to Ameritech's obligations under checklist items 6 (unbundled local switching) and 7 (access to 9-1-1, directory assistance and operator services), as these issues are interrelated. The first issue is whether Ameritech meets its obligation under checklist item 6 to provide WorldCom with customized routing of its OS/DA calls to the Feature Group D ("FGD") trunks designated by WorldCom as part of the unbundled switching requirement. The second issue is whether Ameritech meets its obligation under checklist item 7 to provide WorldCom with non-discriminatory access to Ameritech's OS/DA as UNEs until such time as it provides customized routing.

4. Generally, OS/DA are services that support operator call completion and the ability of Competitive Local Exchange Carriers ("CLECs") to provide directory assistance services to their customers. Operator services refer to any automatic or live assistance to a consumer to arrange for billing or completion, or both, of a telephone call. Specifically, incumbent local exchange carriers ("ILECs") must allow telephone service customers to connect to the operator services offered by that customer's chosen

local service provider by dialing "0" ("0-") or "0" plus the desired telephone number ("0+"), regardless of the identity of the customer's local telephone service provider.

5. Directory assistance refers to a service in which users are provided with telephone numbers and, in some instances, addresses of individual telephone exchange service subscribers. The information provided to users is obtained from databases that contain the names, addresses, and telephone numbers of the telephone exchange service subscribers within particular geographic areas that do not elect to have unpublished numbers.

6. WorldCom has two available methods for providing OS/DA to its customers. Specifically, WorldCom can either purchase OS/DA from Ameritech or provide its own OS/DA. The only way WorldCom can effectively provide its own OS/DA to customers to whom WorldCom provides local services via the UNE-platform¹ ("UNE-P") is through access to the local switched network. Because Ameritech owns and controls the network elements underlying UNE-P, it controls access to the telephone customer (particularly when a CLEC purchases the switching UNE, as is the case with UNE-P). In order to provision its own OS/DA, WorldCom is dependent on Ameritech to route WorldCom's UNE-P customers' OS/DA calls to WorldCom's OS/DA facilities.

7. WorldCom prefers accessing its own OS/DA facilities through customized routing to purchasing Ameritech's OS/DA as a UNE for a variety of reasons. First, self-provisioning will allow WorldCom to directly control OS/DA service offerings to its

¹ UNE P, as used in this testimony, generally refers to a combination of unbundled network elements, including a loop, unbundled local switching and shared transport, that WorldCom and other CLECs purchase from Ameritech to be able to provide local service to end user customers.

customers. This will enable WorldCom to develop and deploy new and innovative services. The FCC recognized the importance of providing CLECs with the ability to provide new and different services even though they may remain dependent in part on ILEC network facilities:

As the Commission explained in the *Local Competition First Report and Order*, using unbundled network elements and resold services present different opportunities, risks, and costs, in connection with providing local telephone service. These differences influence the entry strategies of potential competitors. The Commission stated that carriers using unbundled elements will have greater opportunities to offer services that are different from those services offered by the incumbents.²

The FCC also stated:

Two fundamental goals of the Act are to open the local exchange and exchange access markets to competition and to promote innovation and investment by all participants in the telecommunications marketplace. To further the goal of opening the local market to competition, we may consider how access to specific unbundled network elements will encourage the rapid introduction of local competition to the benefit of the greatest number of consumers.³

8. Second, the ability to self-provision OS/DA services will enable WorldCom to offer ubiquitous OS/DA services to its customers. Today, WorldCom provides extensive operator and directory services to its local facilities-based customers and long distance customers, and provides OS/DA services to non-subscribers with products such as 1-800-COLLECT. WorldCom strives to enhance its brand image by delivering feature consistency as well as reliable high quality with respect to automated and live

² *Initial Report and Order and Fourth Further Notice of Proposed Rulemaking*, CC Docket 96-98, FCC 99-238, ¶ 68, released November 5, 1999 ("UNE Remand Order").

³ *UNE Remand Order* ¶ 103.

operator handling. WorldCom prefers to control product content and delivery in all markets in which it participates in order to protect the value and image of its brand.

9. Finally, WorldCom wants the opportunity to compete with Ameritech as a provider of OS/DA services to other CLECs in Indiana. In order to do so, other CLECs will need Ameritech to provide the customized routing to direct CLECs' customers' calls to WorldCom's OS/DA platform.

10. This does not mean that all CLECs will be in a position to provide facilities-based OS/DA. Many smaller CLECs will lack WorldCom's preexisting ability to provide OS/DA, even assuming Ameritech eventually makes a workable version of customized routing available to CLECs.

11. The FCC has addressed incumbents' obligations with respect to OS/DA. In ¶ 462 of its *UNE Remand Order*, the FCC specified that where the ILEC does not provide customized routing, it must continue to offer OS/DA as UNEs pursuant to 47 USC § 251 (c)(3). Furthermore, neighboring Commissions, such as the Illinois Commerce Commission, have required Ameritech to provide OS/DA as UNEs at Total Element Long Run Incremental Cost ("TELRIC") rates "until such time as Ameritech successfully demonstrates, after testing and [ICC] approval of terms, that CLECs have the ability to route their OS and DA traffic to their own OS and DA platforms or to those

of a third party provider.”⁴ Similarly, the Michigan Public Service Commission has also so held.⁵

12. Ameritech has not proven that it can provide a workable version of customized routing to WorldCom for WorldCom's OS/DA calls that is consistent with WorldCom's business needs and the FCC's rules. WorldCom has requested that Ameritech and all SBC ILEC operating companies route WorldCom's OS/DA traffic to WorldCom's existing, shared access, Feature Group D trunks between Ameritech's local network and WorldCom's long distance network. I have been involved in WorldCom's latest efforts at trying to obtain customized routing for its OS/DA traffic via Feature Group D trunks from another SBC affiliate, Pacific Bell. WorldCom has been attempting to obtain customized routing for its OS/DA traffic to Feature Group D trunks from Pacific Bell since 1997 with no success. It is clear from the testimony that WorldCom filed in the Illinois TELRIC Compliance case in Docket 98-0396⁶ that WorldCom has been attempting to obtain the same type of customized routing for some time in Illinois, also to no avail. Furthermore, WorldCom has advised SBC that it seeks this form of customized routing throughout the entire 13-state SBC region, which includes Indiana. WorldCom has reiterated this request in letters directed to every

⁴ *Investigation into the compliance of Illinois Bell Telephone Company with the order in Docket 96-0486/0569*, Docket No. 98-0396, Order, issued October 16, 2001 (“TELRIC Compliance Order”), p. 95.

⁵ See Opinion and Order, *In the matter of the application of Ameritech Michigan for approval of a shared transport cost study and resolution of disputed issues related to shared transport*, MPSC Case No. U 10000, dated March 10, 2001, pp. 01 00 (“MI OS/DA Order”) (copy available on line at <http://www.cis.state.mi.us/mpsc/orders/comm/2001/u-12622b.pdf>).

⁶ See, e.g., Testimony of Sherry Lichtenberg in 98-0396, pre-filed March 29, 2000.

RBOC nationwide, with respect to every state.⁷ I have attached a copy of WorldCom's June 27, 2002 letter to SBC regarding WorldCom's requested form of customized routing for the 13-state SBC region (which includes Indiana) as Exhibit 1 to this affidavit.

13. Ameritech's inability to provide customized routing in a manner that satisfies our needs is frustrating given that WorldCom's preferred customized routing is technically feasible. Feature Group D trunks are industry-standard trunks that were put into place shortly after divestiture to allow competitive long distance carriers to provide services to customers. It is clearly technically feasible for a CLEC such as WorldCom to use the industry-standard Feature Group D functionalities to route OS/DA traffic to their facilities-based OS/DA platform.⁸ In fact, WorldCom has proposed a customized routing solution to SBC, for use in the Pacific Bell territory, which uses line class codes and standard switch table routing features and functions. This will facilitate routing of OS/DA calls to WorldCom's Feature Group D trunks. WorldCom provided a complete package of switch vendor documentation on how to accomplish such routing as well as WorldCom's own lab testing of this capability as part of our Local Interconnect Agreement Arbitration proceeding in California in February of 2001.⁹ WorldCom's lab

⁷ WorldCom copied state commissions on this correspondence so that its position was known to regulators as well as to RBOCs.

⁸ WorldCom proposed an industry standard Feature Group D configuration that relies on the commonly-used SS7 protocol and uses a combination of Standard Switch Table Routing and Line Class Codes as the method of customized routing. Ameritech, on the other hand, has proposed an AIN based methodology which is unproven for WorldCom's needs. Alternatively, Ameritech has proposed that WorldCom must request the Line Class Code method through the Bona Fide Request process.

⁹ In addition to providing SBC/Pacific Bell with documentation and the results of WorldCom's lab tests on OS/DA customized line class code-based customized routing for Siemens, Nortel and Lucent switches, WorldCom provided SBC/Pacific Bell with documents from the switch vendors -- Siemens, Nortel and Lucent -- which illustrate how WorldCom's preferred line class code-based customized routing method works for the vendors' respective switches.

testing included successful tests of customized routing of OS/DA traffic on switches from the three main switch vendors, including Siemens, Nortel and Lucent. Like the Illinois and Michigan Commissions, the California PUC required Pacific Bell to provide OS/DA as a UNE until it provides customized routing.¹⁰

14. Similarly, and back within the Ameritech region, the Michigan Commission has required Ameritech to continue to offer OS/DA as a UNE at TSLRIC-based rates because of the infeasibility and limited usefulness of the customized OS/DA routing that Ameritech has proposed.¹¹ The Michigan Commission stated that “Ameritech Michigan has interpreted the customized routing conditions of the UNE Remand Order as requiring less of it than the FCC intended,” and that “the FCC did not suggest that an ILEC could arbitrarily implement any form of customized routing it desired, without regard to whether that arrangement provided meaningful access to competitive OS/DA alternatives.”¹² The Michigan Commission then continued on to note:

The FCC emphasized instead that “customized routing is necessary to access alternative sources of OS/DA for competitors not deploying their own switches,” and that “[l]ack of a customized routing solution that enables competitors to route traffic to alternative OS/DA providers would therefore effectively preclude competitive LECs from using such alternative providers.” UNE Remand Order, 15 FCCR at 3902, para. 462.¹³

¹⁰ CPUC Decision 10-09-054, dated September 20, 2001, *Application by Pacific Bell Telephone Company (U 1001 C) for Arbitration of an Interconnection Agreement with MCI Metro Access Transmission Services, L.L.C. (U 5253 C) Pursuant to Section 252(b) of the Telecommunications Act of 1996*. Pages 11-13

¹¹ MI OS/DA Order at 23.

¹² *Id.* at 23.

15. Ameritech's proposed OS/DA routing solution is inadequate. In his draft affidavit for Ameritech Indiana's 271 application, Ameritech witness Mr. William C. Deere states at paragraph 183 that Ameritech will provide customized routing via Line Class Codes ("LCC") technology where customized routing is not available through AIN technology. However, Ameritech does not provide any evidence that it can actually provide the type of line class code customized routing that WorldCom has requested. To WorldCom's knowledge, SBC has not performed any tests of customized routing, as requested by WorldCom (and as required in the Ameritech region by the Illinois Commission), using AIN technology. Thus, AIN custom routing is unproven. Moreover, I remain skeptical of Mr. Deere's claim that Ameritech will provide a line class code-based customized routing solution. Mr. Deere's claim conflicts with the testimony of a different SBC witness, Michael Kirksey, in the Missouri Local Interconnection Arbitration proceeding between WorldCom and SWBT held in January of 2002. According to the testimony of Mr. Kirksey on behalf of SWBT, line class code-based customized routing to Feature Group D trunks, as requested by WorldCom, would not work.¹⁴

16. WorldCom's request for customized routing through Feature Group D-based line class codes is consistent with the FCC's rules associated with OS/DA UNEs

¹⁴

Mr. Kirksey testified as follows: "A. I think the Remand Order says we have to provide customized routing or a compatible ceiling protocol. And -- and we do that. And I would go further to say, Mr. Morris, that if WorldCom were to suggest that we deliver their OS and DA traffic to our feature -- to their Feature Group D trunks and we were to actually make that happen, those calls would fail, sir. Those calls would fail." See, *Petition of MCI Metro Access Transmission Services LLC, Brooks Fiber Communications of Missouri, Inc., and MCI WorldCom Communications, Inc., for Arbitration on an Interconnection Agreement With Southwestern Bell Telephone Company Under the Telecommunications Act of 1996*, Missouri Public Service Commission, Case No. TO-2002-222, Transcript of Hearing, January 16, 2002, p. 571, lines 7-14.

and customized routing. In its *UNE Remand Order*, the FCC provides the following definition of customized routing:

Customized routing permits requesting carriers to designate the particular outgoing trunks associated with unbundled switching provided by the incumbent, which will carry certain classes of traffic originating from the requesting provider's customers. This feature would allow the requesting carrier to specify that OS/DA traffic from its customers be routed over designated trunks which terminate at the requesting carrier's OS/DA platform or a third party's OS/DA platform.¹⁵

17. As I have stated, WorldCom has already requested a Line Class Code based method of customized routing from Ameritech's parent, SBC, for its Pacific Bell affiliate in California, the same type of customized routing that WorldCom desires to use in Indiana. SBC has tested WorldCom's customized routing method in SBC's labs in Texas but to date SBC still refuses to acknowledge that WorldCom's preferred method of customized routing of OS/DA traffic via Feature Group D trunks is technically feasible. Ameritech's statements in this proceeding are at odds with statements made by SBC in other proceedings and do not meet the terms set out by the FCC because WorldCom would not have the ability "to designate the particular outgoing trunks" for routing its outbound traffic unless the AIN and Line Class Code customized routing methods are proven to be viable.

18. It is unclear from Ameritech's submissions whether it recognizes its obligation to provide OS/DA services as UNEs, at least until it proves that it can provide customized routing consistent with the FCC's rules. Nevertheless, until such time as

¹⁵ *UNE Remand Order* ¶ 441 n.867 (emphasis added).

the IURC finds that Ameritech actually provides customized routing to WorldCom in a manner consistent with the FCC's UNE Remand Order, Ameritech must continue to offer OS/DA as a UNE, at TELRIC rates.¹⁶

19. This is consistent with the FCC's rules, as stated in ¶ 462 of the *UNE Remand Order*, which provides that ILECs are required to continue to offer OS/DA as UNEs in the absence of an appropriate customized routing solution. In this paragraph the FCC states in part:

...Lack of a customized routing solution that enables competitors to route traffic to alternative OS/DA providers would therefore effectively preclude competitive LECs from using such alternative providers. Thus, if an incumbent LEC does not provide customized routing to requesting carriers that use the incumbent's unbundled switching element, it must provide unbundled access to its OS/DA service.

20. The FCC further clarified its position with regard to differing methods of customized routing in paragraph 463 of the *UNE Remand Order*. In this paragraph the FCC states, in part, that:

...In instances where the requesting carrier obtains the unbundled switching element from the incumbent, the lack of customized routing effectively precludes requesting carriers from using alternative OS/DA providers and, consequently, would materially diminish the requesting carrier's ability to provide the services it seeks to offer. Thus, we require incumbent LECs, to the extent they have not accommodated technologies used for customized routing, to offer OS/DA as an unbundled network element.

21. Clearly, Ameritech has yet to comply with the directives of the FCC with respect to customized routing. Unless and until Ameritech successfully implements

¹⁶ Proper TELRIC-based pricing for OS/DA services is awaiting decision in IURC Cause No. 40611-S1. Per the Commission's October 31, 2002 Process Order in this proceeding, I will not address pricing of the OS/DA services at this time.

WorldCom's preferred method of customized routing of OS/DA traffic over designated FGD trunks, the Indiana Commission cannot find that Ameritech has complied with checklist items 6 or 7. Unless and until that happens, the IURC should decline to endorse Ameritech's bid to provide in-state, interLATA services in Indiana.

22. The FCC has rejected 271 applications because of the lack of availability of customized routing that would allow OS/DA traffic to be routed to a CLEC's OS/DA platform or the OS/DA platform of a third-party provider. The FCC recognized ILECs' obligations with respect to OS/DA in its second review of Bell South's 271 Application in Louisiana. The FCC rejected Bell South's second Louisiana application for failure to meet its obligations with respect to checklist items 6 and 7.¹⁷ In the Bell South Louisiana II Order, the FCC specifically addressed customized routing in paragraphs 221 through 227. In paragraph 221 the FCC found "BellSouth does not meet the requirements set forth in the *Local Competition First Report and Order* and our rules that an incumbent LEC provide technically feasible customized routing functions." In Paragraph 223 of Louisiana II, the FCC concluded that "BellSouth's use of line class codes would be an acceptable interim method of providing customized routing. However, BellSouth does not demonstrate that it can make customized routing practically available in a nondiscriminatory manner due to the inability of competitive LECs to order customized routing efficiently." In Louisiana II at paragraph 224, in terms of the type of customized routing that ILECs must provide, the FCC stated, "We agree

¹⁷

See Federal Communications Commission Memorandum Opinion and Order, *In re BellSouth Corporation, BellSouth Telecommunications, Inc., and BellSouth Long Distance, Inc., for Provision of In-Region, InterLATA Services in Louisiana*, CC Docket No. 98-121, 13 F.C.C.R. 20599 (Oct. 13, 1998) (Louisiana II).

with BellSouth that a competitive LEC must tell BellSouth how to route its customers' calls."

23. WorldCom contends that, like BellSouth, Ameritech does not meet the requirements for the First Report and Order or the FCC's rules. WorldCom has told SBC exactly what it wants with respect to customized routing and demonstrated that it is technically feasible. Despite this, to date SBC has been steadfast in its refusal to provide customized routing as requested by WorldCom.

24. The FCC has addressed WorldCom's preferred method of customized routing of OS/DA traffic over FGD trunks. In Louisiana II, paragraph 226, the FCC addressed WorldCom's preferred method of customized routing, stating in pertinent part:

MCI raises a separate challenge to BellSouth's customized routing offering. MCI claims that BellSouth will not "translate" its customers' local operator services and directory assistance calls to Feature Group D signaling. As a result, MCI cannot offer its own operator services and directory assistance services to customers it serves using unbundled local switching. MCI, however, fails to demonstrate that it has requested Feature Group D signaling, and BellSouth claims that it has never received such a request. Thus, the record is inconclusive as to this objection. We believe, however, that MCI may have otherwise raised a legitimate concern. If a competing carrier requests Feature Group D signaling and it is technically feasible for the incumbent LEC to offer it, the incumbent LEC's failure to provide it would constitute a violation of section 251 (c)(3) of the Act. Our rules require incumbent LECs, including BOCs, to make network modifications to the extent necessary to accommodate interconnection or access to network elements.

25. WorldCom has consistently requested customized routing via Feature Group D from SBC back as far as 1997 in California. As noted above, Ameritech has

been aware of WorldCom's request for Customized Routing via Feature Group D trunks in Illinois at least since WorldCom's testimony was filed in March 2000 in ICC Docket 98-0396, and Ameritech is also aware that WorldCom seeks this same routing region-wide.

26. WorldCom's Feature Group D ("FGD") proposal is clearly technically feasible and would allow WorldCom to "designate the particular outgoing trunks associated with unbundled switching provided by the incumbent." WorldCom's proposal requires Ameritech to route WorldCom's OS/DA traffic using line class codes and other switch software features to shared access FGD trunks to WorldCom's long distance network. Ameritech's switch will translate each WorldCom customer's 411, 555-1212 call into a 10-digit number that SBC will route like any other long-distance call it sends to WorldCom's Long Distance, FGD trunks. Similar methods will be used to change the nature of WorldCom customers' 0+ and 0- calls to route them to WorldCom's Long Distance network. Ameritech will then send these WorldCom calls, along with all other WorldCom long-distance (customer-originated 1+ calls where the customer has chosen WorldCom as his or her Primary Interexchange Carrier ("PIC")) to WorldCom's existing FGD trunks.

27. Finally, the FCC stated in paragraph 227 of the BellSouth Louisiana II Order:

In its reply comments, BellSouth claims that "the concept of using [Feature Group D signaling] for operator services signaling appears to present significant problems that will require technical investigation and testing. As a result, [s]hould the [Feature Group D signaling] approach prove feasible, time would be needed to develop and implement switching arrangements." Although it will take time to determine technical feasibility, modify and adapt its

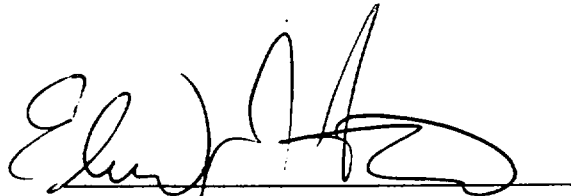
facilities, and establish ordering systems to allow the requesting carrier to offer new service, a BOC should accomplish these in a swift, efficient and businesslike manner that would give an efficient competitor a meaningful opportunity to compete.

28. SBC and Ameritech have had ample time to understand WorldCom's requirements. SBC and Ameritech have been aware of WorldCom's requirements since 1997, and have been provided with documentation on exactly how to perform the customized routing that WorldCom requires since before February, 2001, as part of the Pacific Bell proceeding. Regardless, SBC has failed to provide WorldCom with its required customized routing in a swift, efficient and businesslike manner. For these reasons, Ameritech does not meet its obligations under checklist items 6 and 7. Unless and until Ameritech does comply with checklist items 6 and 7, the IURC should refuse to endorse any bid by Ameritech Indiana to provide in-state, interLATA services in Indiana.

29. This concludes my affidavit.

Further affiant sayeth not.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.


Edward J. Caputo

STATE OF VIRGINIA:

COUNTY OF LOUDOUN:

Subscribed and sworn to before me
This 2nd day of December, 2002.


Notary Public

Virginia J. Taylor
NOTARY PUBLIC
Commonwealth of Virginia
My Commission Expires 4/30/05



Two Northwinds Center
2520 Northwinds Parkw
Alpharetta, GA 30004

June 27, 2002

Jeff Ulm
Vice President
SBC Telecommunications, Inc.
350 N. Orleans, Floor 3
Chicago, IL 60654

Dear Jeff:

WorldCom, through its various CLEC affiliates, is either currently providing, or plans to provide in the future, local service via unbundled network elements in the SBC 13-state operating area. In order to best serve our local customers, we plan to provide local operator services and directory assistance (OS & DA) services to our customers via WorldCom's own OS & DA platform.

WorldCom's CLEC affiliates are entitled to non-discriminatory access to local OS & DA under the Telecommunications Act of 1996, applicable state law and rules promulgated by the Federal Communications Commission.

As you know, the FCC requires Incumbent Local Exchange Carriers such as SBC to provide customized routing of competitors' OS and DA calls so that competitors can either self provision these services or obtain them from a third party provider. Specifically, the FCC has said that: "Customized routing permits requesting carriers to designate the particular outgoing trunks associated with unbundled switching provided by the incumbent, which will carry certain classes of traffic originating from the requesting provider's customers. This feature would allow the requesting carrier to specify that OS/DA traffic from its customers be routed over designated trunks which terminate at the requesting carrier's OS/DA platform or a third party's OS/DA platform." - *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, Third Report And Order And Fourth Further Notice Of Proposed Rulemaking, FCC 99-238, CC Docket No. 96-98, Fn. 867 (1999). (UNE Remand Order)*

Many state public utility commissions have upheld WorldCom's requested form of customized routing in recent orders and opinions. Among them are California (Decision 02-02-048 on 2/21/2002 in association with the Final Arbitrator's Decision in Docket 01-01010) and Texas (Arbitration Award, PUC Docket No. 24542). And, as you are aware, SBC and WorldCom have begun testing customized routing solutions based on WorldCom's requirements and have taken steps to implement the Texas and California arbitration awards.



Please consider this letter WorldCom's formal request of SBC to provide customized routing of WorldCom's unbundled network element customers' local OS & DA calls to WorldCom's shared access, Feature Group D trunks which connect to WorldCom's long distance network in the entire SBC region, based on the testing and implementation already begun by the companies. WorldCom's OS & DA calls will be routed from the SBC end office switch serving WorldCom's customers via existing, shared access Feature Group D trunks to the WorldCom long distance network. As part of WorldCom's request for customized routing we require that SBC provide any and all switch translations, digit manipulation, and switch table routing using switch features and functions and/or Advanced Intelligent Network (AIN) capabilities as necessary to custom route our calls to the trunks we designate per our specifications. We further require that our calls be routed to our existing (or "primary") shared access, Feature Group D trunks either at the end office switch where the call originates, or if necessary by sending these calls over shared transport to our designated Feature Group D trunks installed at tandem switch locations.

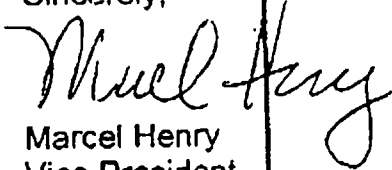
WorldCom previously provided SBC with a comprehensive technical white paper on customized routing prepared by WorldCom's local switch engineers. This white paper illustrates technically how our request can be implemented. WorldCom's requested method utilizes existing switch features and functions designed to provide customized routing for alternate local providers. The methodology is based on technical support documentation from Lucent, Nortel and Siemens and completely supports our request for customized routing of OS & DA calls from WorldCom's unbundled network element customers.

This letter is intended to be a blanket request for the above-referenced customized routing in all states in your territory. We are making this request for all of your local operating companies so that you may gain all possible efficiencies of scale and avoid duplicative processes. We expect that you will coordinate this request between and among your various entities with responsibility for local operations. WorldCom will work with each local entity to determine the approximate timeframes for implementation in each state.

WORLD.COM

If you have any questions or wish to set up a meeting to better understand our request, please call Carl Benson, Director of WorldCom Carrier Management at (972) 656-1574. Otherwise, I'd appreciate a written response to our request by July 12, 2002, to allow us to begin the work necessary to process OS & DA calls from WorldCom's unbundled network element customers.

Sincerely,



Marcel Henry
Vice President
National Carrier and Contract Management

cc: WorldCom State Regulatory
Michael A. Beach
Steve Johnson
Ed Caputo
Eric Artman
Carl Benson

STATE OF INDIANA
INDIANA UTILITY REGULATORY COMMISSION

**In the Matter of the Petition of Indiana
Bell Telephone Company, Inc. d/b/a
Ameritech Indiana, Pursuant to I.C. 8-1-2-61,
For a Three-Phase Process for Commission
Review of Various Submissions of
Ameritech Indiana to Show Compliance with
Section 271(c) of the Telecommunications
Act of 1996.**

Cause No. 41

AFFIDAVIT OF MICHAEL J. LEHMKUHL

On Behalf of WorldCom, Inc.

(DAL, CNAM and LIDB Issues)

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PROFESSIONAL INFORMATION

1. My name is Michael J. Lehmkuhl and I am employed by WorldCom, Inc.¹ My current business address is 601 South 12th Street, Arlington, Virginia, 22202. The title of my current position in the Company is Senior Regulatory Specialist for Operator Services and Directory Assistance. In that role, I support the business and regulatory efforts of WorldCom's ISN Services and Solutions Group with regard to the regulatory aspects of Operator and Directory Assistance Services and Databases. I am a member of the Wisconsin Bar on inactive status, although I practiced telecommunications law before the FCC and other federal agencies for 8 years before joining WorldCom two years ago. I graduated from Drake University Law School in 1990, earning both a Juris Doctorate in Law and a Master of Arts in Mass Communication. I earned a Bachelor's degree in Journalism from the University of Wisconsin at Madison in 1987.

PURPOSE OF AFFIDAVIT

2. The purpose of my affidavit is to respond to the draft affidavit of Ameritech Indiana witness Chris Nations, and ¶¶ 225-238 and 257-275 of the draft affidavit of Ameritech Indiana witness William Deere, as well as to discuss WorldCom's experience with Ameritech on database issues, with an emphasis on

¹ In this affidavit I use the term "WorldCom" to mean individually or collectively any of the WorldCom companies, unless context indicates otherwise, including MCI metro Access Transmission Services, LLC ("MCI"), MCI WorldCom Communications, Inc., etc.

those experiences as they relate to Section 271 of the Telecommunications Act of 1996 ("TA96") and the impact that they have on WorldCom's ability to provide services to end-user customers in Indiana. Specifically, I address WorldCom's troubling experiences with Ameritech in obtaining nondiscriminatory access to call-related databases, including difficulties obtaining accurate Directory Assistance Listing ("DAL") information, the failure of Ameritech to provision the Calling Name Database ("CNAM") in a nondiscriminatory manner, Ameritech's failure to deliver accurate and reliable Caller Identification ("Caller ID") for former Ameritech customers that have switched to WorldCom, and Ameritech's failure to provide nondiscriminatory access to its line information database ("LIDB").

3. The issues I will address fall primarily within checklist item 10, access to databases and associated signaling. Despite Ameritech's claim that it has fulfilled the requirements of checklist item 10 (access to databases and associated signaling), the issues I discuss below demonstrate that Ameritech has not fulfilled its statutory obligation to provide nondiscriminatory access to databases in a manner consistent with TA96 and FCC orders. Note that to the extent that the DAL might be considered a part of directory assistance services, even though it is not, in itself, a service, then Ameritech's compliance with checklist item 7 (access to directory assistance services) would also be at issue.

DAL DATABASE

4. The DAL database consists of the directory listings of Ameritech's and CLECs' customers that Ameritech uses to provide directory assistance. These listings contain the name, address, telephone number, and an indication of whether the customer is a residence or business listing. Those listings that are "non-published" also reside in the database, except the line number is removed and an indication of "NONPUB" status is made. Ameritech generates these listings either through its service order process when a customer signs up for service, or by receiving these listings directly from CLECs such as WorldCom. Because Ameritech controls a vast majority of the subscribers in Indiana, it uses its market position to unfairly control how these listings are used by other CLECs and at what price the listings are acquired.

5. The issues critical to WorldCom with regard to Ameritech's DAL database are that it must have nondiscriminatory access to this database, without use restrictions, at cost-based rates. While WorldCom believes that the DAL database is a UNE and its access is governed under Section 251(o)(3) of the Telecommunications Act of 1996 ("TA96"), the result is also the same under the nondiscriminatory access requirements of dialing parity set forth in Section

6. The Federal Communications Commission ("FCC") first determined that the DAL database is a UNE under Section 251(c)(3) of TA96 in its *Local Competition First Report & Order*.² As such, Ameritech is obligated to provide nondiscriminatory access to the DAL database at cost-based or Total Element Long Run Incremental Cost ("TELRIC") pricing.

7. More recently, in the FCC's *UNE Remand Order*³, the commission restructured the UNE classification of Operator Services and Directory Assistance services ("OS/DA"). In that Order, the FCC removed OS/DA from its previous UNE classification in those cases where the ILEC provided customized routing to CLECs. Based on that Order, however, WorldCom does not believe that the FCC removed the UNE classification for the directory assistance database since the FCC's discussion of the necessary and impair analysis focused solely on the provision of OS/DA **services**. As more fully explained in Mr. Caputo's affidavit, the FCC concluded that OS/DA can be provided by other competing carriers if the CLECs were given the customized routing necessary to access those services. What was not discussed in the FCC's *UNE Remand Order*, however, is that ILECs such as Ameritech Indiana, continue to have a monopoly control over DAL, a situation that is not corrected by customized

² *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, First Report & Order, FCC 96-325, CC Docket No. 96-98 (1996) at ¶ 538 (hereinafter "Local Competition First Report and Order").

³ *In re Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-98, Third Report and Order and Fourth Further Notice of Proposed Rulemaking, 15 F.C.C.R. 3696 (1999) (hereinafter "*UNE Remand Order*").

routing since DAL is a database and NOT the OS/DA services discussed in the *UNE Remand Order*.

8. Moreover, in the *UNE Remand Order*, the FCC seemed to classify DAL as a call-related database. For example, in the Executive Summary of that Order, in a section titled "Network Elements that Must be Unbundled," specifically stated that "LEC's must also offer unbundled access to call-related databases, **including but not limited to**, the Line Information database (LIDB), Toll Free Calling database, Number Portability database, Calling Name (CNAM) database, **Operator Services/Directory Assistance databases...**" *UNE Remand Order*, ¶19 (*emphasis added*). Additionally, the Commission's *Local Competition First Report & Order* defined call-related databases as "databases, other than operations support systems, that are used in signaling networks for billing and collection or the transmission, routing, or **other provision of telecommunications service.**" *Local Competition First Report & Order* at fn. 1126; see also, *UNE Remand Order* at ¶ 403 (*emphasis added*).

9. While section 251(c)(3) of TA96 sets forth incumbents' obligations regarding UNEs and states that UNEs may be used by any telecommunications carrier to provision a telecommunication service, Amortoon may not impose any restrictions on how WorldCom uses the DAL data.

10. The Act's UNE provisions obligate Ameritech to allow competitive local exchange carriers ("CLECs") nondiscriminatory access at cost-based rates. To the extent that DAL is a UNE under Section 251(c)(3) of TA96 (which it is), WorldCom believes that Ameritech must provide WorldCom, as a competing provider of telephone exchange and toll service, with just, reasonable, and non-discriminatory access on an unbundled basis to the DAL obtained as a result of Ameritech's position as a regulated monopoly. Moreover, as part of its obligation, Ameritech must provide DAL at TELRIC or forward-looking cost-based rates. It is my understanding that the Commission has deferred discussion of pricing under review in IURC Cause No. 40611-S1, *In the Matter of The Commission Investigation and Generic Proceeding on Ameritech Indiana's Rates for Interconnection Service, Unbundled Elements, and Transport and Termination under the Telecommunications Act of 1996 and Related Indiana Statutes*, to a later date (pending issuance of that order). DAL is not a subject of that proceeding, and indeed, Ameritech appears to dispute that DAL is a UNE that is subject to TELRIC pricing principles. In any event, I do not address here what the appropriate pricing for DAL is under Checklist Item 2, but rather address the subject of nondiscriminatory access to DAL under Checklist Items 7 and 10. To the extent that the issue of cost-based v. market-based pricing affects that analysis, it is addressed here.

11 As I previously mentioned, the dialing parity requirements of Section 251(b)(3) of TA96 also apply to the DAL database and are often cited as the

main requirement under which incumbent local exchange carriers ("ILECs") are obligated to provide nondiscriminatory access to DAL. These nondiscriminatory requirements are as between all local exchange carriers ("LECs") and directory assistance ("DA") providers and are not mutually exclusive with an ILEC's obligations under Section 251(c)(3) since the UNE requirements remain applicable as between ILECs and CLECs such as WorldCom.

12. Because ILECs such as Ameritech remain in control of the subscriber service order process (from which DAL is derived) for the vast majority of subscribers in Indiana, in order to compete effectively, CLECs must have nondiscriminatory access to DAL, without anti-competitive and discriminatory restrictions being placed on such access by the ILEC. Moreover, DAL must be provided at cost-based rates, in order for the competitive goals of TA96 to be achieved.

13. Ameritech has not lived up to its obligations under these two sections. First, Ameritech's Interconnection Agreement with WorldCom⁴ severely limits WorldCom's ability to use the database to provide any telecommunications service, as required under the FCC's Rules. *See*, 47 CFR 51.309(a). The Interconnection Agreement specifically prohibits WorldCom from using the DAL data for anything but "the sole purpose of providing any Directory Assistance via a live operator or automated services in response to specific end

user requests for such information.” See, ICA DAL Amendment Schedule 14.2, Section 2.2.

14. Ameritech’s restrictions on the use of DAL are also contrary to Section 251(b)(3) of TA96. As the FCC stated in its *DAL Provisioning Order*,

...we conclude that section 251(b)(3)’s requirement of nondiscriminatory access to a LEC’s DA database does not contemplate continuing veto power by the providing LEC over the uses to which DA information is put...

* * *

We disagree with commenters such as Bell Atlantic that maintain that a competing DA provider may not use the DA database for purposes other than providing directory assistance. Section 251(b)(3) imposes no such limitation on LECs, their affiliated DA providers, or CLECs, and the commenters have offered no basis in the Act [TA96] or our rules for imposing such a restriction on competing DA providers.⁵

15. Ameritech has not amended this agreement to be consistent with the FCC’s recent Order. Instead, Ameritech has proposed a further amendment to its DAL agreements to say that it will not enforce the use restrictions therein.⁶ By not enforcing such provisions, however, the language is kept in the agreement and Ameritech basically reserves the right to enforce them subject to reconsideration of the FCC’s Order. The amendment provides little comfort to

⁴ *First Amendment to Interconnection Agreement (dated December 4, 1997) Under Sections 251 and 252 of the Telecommunications Act of 1996*, September 30, 1998.

⁵ *In the Matter of Provision of Directory Listing Information*, First Report & Order, FCC 0127 at ¶¶ 28-29 (January 2001) (*hereinafter* “*DAL Provisioning Order*”) [footnotes omitted].

⁶ See, Accessible Letter CLECAM01-080 cited in Draft Affidavit of Chris Nations, ¶ 30, footnote

WorldCom, however, since this is exactly the kind of “veto power” the FCC was talking about in its Order. WorldCom believes that Ameritech’s obligation against use restrictions predates the FCC’s order and comes directly from the TA96 and cannot be erased on reconsideration of an FCC Order.

16. Because Ameritech controls the vast majority of customers and lines in its service territory in Indiana, it enjoys a monopoly with respect to DAL in Indiana. DAL information is generated by Ameritech’s service order process when a customer initiates service. Because Ameritech’s line share represents a majority of the marketplace, Ameritech also controls the vast majority of DAL listings in the state of Indiana. The FCC has confirmed that incumbents like Ameritech enjoy a competitive advantage with respect to the provision of critical directory assistance service as a result of their legacy as monopoly providers and their “dominant position in the local exchange and exchange access markets”⁷ and that they have “access to a more complete, accurate and reliable database than its competitors.”⁸ These findings confirm that Ameritech maintains significant market power over the provision of listing data.

17. Ameritech’s monopoly control of DAL justifies a continued requirement for cost-based prices for these services and is wholly consistent with

⁷ *FCC Memorandum Opinion and Order, In the Matter of the Petition of SBC Communications Inc. for Forbearance of Structural Separation Requirements and Request for Immediate Injunctive Relief in Relation to the Provision of Nonlocal Directory Assistance Services, et al* CC Docket No. 97-172,,DA 00-514, adopted April 11, 2000, at fn. 42.

FCC guidelines. It is WorldCom's view that market-based pricing for a UNE such as DAL, as proposed by Ameritech, is contrary to TA96, FCC requirements and is wholly unjustified because Ameritech has a lock on how the data is generated in Indiana.

18. Ameritech has represented that its rates for DAL are market-based rates. Ameritech's witness Chris Nations so states in his draft FCC affidavit, which represents that "Ameritech's DAL are provided at market-based prices on a per listing basis." See Draft Affidavit of Chris Nations, ¶ 30. Ameritech has also taken this stance in Ohio, Wisconsin, Michigan and Illinois, and Ameritech's parent, SBC, has taken this stance in a number of other jurisdictions.

19. Appropriate DAL rates are cost-based. First, because DAL is a UNE, the FCC requires cost-based pricing. Second, even if DAL were not considered a UNE, which would be contrary to the FCC's determinations, market-based pricing of DAL would be inappropriate under any nondiscriminatory access analysis. Notwithstanding the provisions of Section 251(c)(3) of TA96 that require UNEs to be provided at forward looking, cost-based rates, the FCC in its *DAL Provisioning Order* found that Section 251(b)(3) prohibits ILECs from charging discriminatory and unreasonable rates to CLECs and other eligible directory assistance providers. Nondiscriminatory pricing applies not only to the rates that Ameritech might charge other carriers, but the rates must also be the

⁸ *Id.*; see also DAL Provisioning Order at ¶ 3.

same as what Ameritech charges itself or the costs that Ameritech “imputes” to its own rates. A price can hardly be called “nondiscriminatory” if Ameritech charges other carriers a higher rate than what it charges itself.

20. This point was not lost on the FCC. In its *Local Competition Third Report & Order*, the FCC found that, “[b]ecause an incumbent LEC would have the incentive to discriminate against competitors by providing them with less favorable terms and conditions than it provides to itself, we conclude that the term “nondiscriminatory,” as used throughout section 251, applies to the terms and conditions an incumbent LEC imposes on third parties as well as on itself.”⁹ Indeed, the FCC recently reaffirmed that incumbents must “make available to unaffiliated entities all of the in-region telephone numbers they use to provide nonlocal directory assistance service at the same rates, terms and conditions they impute to themselves,”¹⁰ finding that the ILECs must “comply with the nondiscrimination requirements set forth in section 272(c)(1).”¹¹ Because Section 251(b)(3) mandates nondiscriminatory access between all competitive providers, Ameritech must provide DAL at the same price it provides the data to itself.

21. Recently, Ameritech has claimed that it does, in fact, impute to itself the same market-based rates it charges others. This claim is rather unsettling

⁹ *Local Competition Third Report & Order*, FCC 99-227, ¶ 129 (1999), citing *Local Competition Second Report and Order*, at ¶¶ 100-05, and *Local Competition First Report and Order*, at ¶ 217.

¹⁰ FCC Memorandum Opinion and Order, In the Matter of the Petition of SBC Communications Inc. for Forbearance of Structural Separation Requirements and Request for Immediate Interim Relief in Relation to the Provision of Nonlocal Directory Assistance Services, *et al* CC Docket No. 97-172,,DA 00-514, Adopted April 11, 2000, at ¶ 2.

since, in effect, it means that that Ameritech pays itself artificially higher rates so that it can sell DAL to others at the same high rates. This arrangement, if true, is simply illusory since, although Ameritech may use some billing technique to record paying a higher rate, in reality, it is only paying for its costs. By so doing, it discriminates against other carriers who are forced to pay the full freight.

22. Moreover, such a claim underscores how lopsided and discriminatory market-based pricing is for DAL when Ameritech effectively controls the market with the vast majority of listings in Indiana. One wonders how Ameritech determines what a market-based rate is when it controls the supply of that market in Indiana? For example, while Ameritech Indiana charges WorldCom \$0.033 per initial listing and \$0.0579 per daily update listing per listing, WorldCom and other CLECs do not receive any compensation for the listings they give to Ameritech. Realistically, to determine market price, all Ameritech has to do is pick a price and charge itself that same price. Such a scheme ignores what Ameritech actually pays for the listings and is patently discriminatory.

23. Other states have approved cost-based DAL rates. In its *DAL Provisioning Order*, the FCC cited approvingly a New York decision to set cost-based, nondiscriminatory prices for the incumbent's provision of nonlocal directory assistance information and found that states could establish a specific

¹¹ *Id.* at ¶ 15 (citations omitted).

pricing structure for directory assistance information.¹² In Texas, based on a cost study submitted by SWBT, the Texas Commission already set a cost-based price for initial listings at \$0.0011 and \$0.0014 for updates. See, Texas 1998-2000, *Directory Assistance Listing Cost Study, Total Element Long Run Incremental Cost Study*, Form 2; cited in, MCI Texas Arbitration Award, Docket 19075, at pages 12-14 (1998). Similarly, the California PUC decided that cost-based rates should apply to DAL and referred the matter to an ongoing cost proceeding to determine pricing. See, *Application by Pacific Bell Telephone Company (U 1001 C) for Arbitration of an Interconnection Agreement with MCImetro Access Transmission Services, L.L.C. (U 5253 C) Pursuant to Section 252(b) of the Telecommunications Act of 1996*, California Public Utilities Commission, Decision 01-09-054, September 20, 2001, at p. 6.

24. In the Ameritech States, Michigan has recognized the special nature of DAL. The Michigan Commission found that “the requirement to provide nondiscriminatory access to DAL requires that it be provided at cost based rates....” See *In the matter, on the Commission’s own motion, to consider Ameritech Michigan’s compliance with the competitive checklist in Section 271 of the federal Telecommunications Act of 1996*, MPSC Case No. U-12320, Opinion and Order dated December 20, 2001, at p. 16.

¹² *Id.* at ¶ 38, fn. 99, citing *Opinion and Order in Module 1 (Directory Database Services)*, Case 98-C-1375, Opinion No. 00-02, State of New York Public Service Commission (Feb. 8, 2000).

25. The Indiana Commission should join the California, New York, Texas, and Michigan Commissions in requiring cost-based DAL rates in order for Ameritech Indiana to demonstrate that it is providing non-discriminatory access to DAL in compliance with Checklist Items 7 and 10, and withhold any recommendation that the FCC grant Ameritech Indiana authority to provide in-state, interLATA authority until such non-discriminatory, cost-based rates are set.

CNAM

26. CNAM stands for Calling Name Database and is a database of Ameritech subscribers and other LEC subscribers that is comprised of line numbers, a 15 digit name identifier and a privacy indicator associated with the line record if one exists. The database is used to provide caller ID services. As an incoming call is routed and terminates at a customer's phone, a query is sent from the terminating switch to a database to retrieve information on the party calling. The information retrieved from the database is then routed over the network so that it is viewable on a subscriber's equipment to identify the caller before the second ring cycle. Currently, Ameritech Indiana offers WorldCom access to its CNAM database on a per query basis only, although the issue of CLECs' batch-download access to Ameritech Indiana's CNAM database is awaiting a ruling in Phase II of IURC Cause No. 40611-S1. WorldCom urges the Commission to review the tremendously detailed record developed there in addressing the issue here. WorldCom does not presently access Ameritech's

CNAM database except in Michigan, where it currently receives Ameritech Michigan's CNAM database records in a download format.

27. As with DAL, ILECs have virtually exclusive control over the generation of the information that comprises this database through the service order process. Because of this, CNAM is essential to allowing WorldCom to offer telecommunications services such as caller ID.

28. As the FCC concluded in the *UNE Remand Order*, "there are no alternatives of comparable quality and ubiquity available to requesting carriers, as a practical, economic, and operational matter, for the incumbent LEC's call-related databases." *UNE Remand Order* at ¶ 410. As the ILEC in Indiana with a clear majority of subscribers in Indiana, Ameritech has a stranglehold on the information that comprises these databases.

29. Because the CNAM database, as a call-related database, has been identified as a UNE, Section 251(c)(3) of TA96 requires Ameritech to provide access on just, reasonable and nondiscriminatory terms. In addition, Ameritech may not restrict WorldCom's use of this database in the provision of a telecommunications service.

30. In TA96, Congress mandated that ILECs have a duty to provide any requesting carrier nondiscriminatory access to network elements on an

unbundled basis at any technically feasible point on rates, terms, and conditions that are just, reasonable, and nondiscriminatory. Section 51.319(e)(2)(A) of the FCC's rules also requires that ILECs provide nondiscriminatory access to all call-related databases as UNEs. 47 C.F.R. §51.319(e)(2)(A). Ameritech therefore has a duty to provide access to the databases in at least the same manner that Ameritech provides to itself and to other carriers. The FCC has stated repeatedly that any standard that would allow an ILEC to provide access to any competitor that is inferior to that enjoyed by the ILEC itself is inconsistent with Congress' objective of establishing competition in all telecommunications markets. *See, e.g., Local Competition Order* at ¶¶ 100-105. This means not only that Ameritech is obligated to treat all carriers the same, but must provide those carriers with the same nondiscriminatory access to these databases that it provides itself or its subsidiaries or affiliates in order to level the playing field with respect to providing competing services to customers in Indiana.

31. As a matter of policy, and as argued in Phase II of IURC Cause No. 40611-S1 the Commission should require Ameritech to allow WorldCom full, or "download" access to the Ameritech CNAM database. The CNAM database is a UNE and as such, Ameritech is obligated to provide WorldCom just, reasonable and nondiscriminatory access to this element. WorldCom requests the transfer of Ameritech's CNAM database to WorldCom as a "batch" file instead of being relegated to "per-query" or "dip" access, because batch access allows WorldCom use of the database in exactly the same readily accessible manner as Ameritech

enjoys. As WorldCom pointed out in recent cost proceedings before the Indiana Utility Regulatory Commission, download access would also allow WorldCom to avoid the use of Ameritech's SS7 network, which makes up the vast majority of the cost of per-query access.¹³ Conversely, limiting access to a per-query or "dip" basis discriminates against WorldCom and other CLECs by giving Ameritech an unfair advantage over costs, service quality and the provision of new and innovative services.

32. Ameritech may claim that it accesses the CNAM database on a per query basis as well, but any such statement is misleading. Although any database is accessed by providing a query, Ameritech owns the physical database and thus has the ability to access, manipulate, or use the database any way it likes. It is disingenuous, at best, for Ameritech to claim that it has, like WorldCom, only "dip" access to its CNAM database, given Ameritech's statement that it has moved CNAM to an Advanced Intelligent Network ("AIN") platform. See Draft Affidavit of W.C. Deere, ¶¶ 263-64. As I explain below, limiting WorldCom to a query-only access simply restricts WorldCom from implementing its own innovations.

¹³ See Rebuttal Testimony of Michael Starkey (Public Version), *In the Matter of The Commission Investigation and Order Proceeding on Ameritech's Indiana's Rates for Interconnection Service, Unbundled Elements, and Transport and Termination under the Telecommunications Act of 1996 and Related Indiana Statutes*, Indiana Utility Regulatory Commission, Cause No. 40611-S1, page 48 (April 2, 2002).

33. Furthermore, it is unclear whether Ameritech intends to move its CNAM database to an unregulated entity, SNET Diversified Group ("SNET DG") as it has for LIDB (see discussion below), and as SBC claimed in interconnection agreement negotiations with WorldCom in Connecticut and Missouri. If so, this would be a feat difficult to perform absent a batch transfer.

34. The FCC has determined that query-only access to other databases is discriminatory. An analogy can be made between access to the CNAM database and the DAL database. With respect to DAL databases, the FCC specifically found that "LECs must transfer directory assistance databases in readily accessible electronic, magnetic tape, or other format specified by the requesting LECs, promptly on request. . . ." ¹⁴ The FCC specifically held that LECs may not restrict competitive access to the DAL database by restricting access to per-query access only:

Although some competing providers may only want per-query access to the providing LEC's directory assistance database, per-query access does not constitute equal access for a competing provider that wants to provide directory assistance from its own platform. With only per-query access to the providing LEC's database, new entrants would incur the additional time and expense that would arise from having to take the data from the providing LEC's database on a query-by-query basis then entering the data into its own database in a single transaction. *** Such

¹⁴ *In the Matters of Implementation of the Telecommunications Act of 1996, Telecommunications Carriers' Use of Customer Proprietary Network Information and Other Customer Information, Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, Provision of Directory Listing Information*, Third Report and Order in CC Docket No. 96-115, Second Order on Reconsideration in CC Docket No. 96-98, and Notice of Proposed Rulemaking in CC Docket No. 99-273, at ¶ 153 (September 9, 1999) (hereinafter, "1999 Directory Listing

extra costs and the inability to offer comparable services would render the access discriminatory.

1999 Directory Listing Order at ¶ 152.

35. Similarly, the CNAM database is also a call-related database, and competitors' access to this database should not be limited to a per-query or per-dip basis only. To allow such a restriction to stand allows Ameritech to discriminate against competing carriers through limited access to the CNAM database.

36. It is useful to understand why merely receiving "per-query" access is discriminatory. When an Ameritech caller makes multiple calls to a WorldCom customer with caller-ID, WorldCom must query Ameritech's database for the same caller-ID information each and every time that call is terminated. In doing so, WorldCom must pay for that query each and every time that call is terminated. But when an Ameritech customer calls another Ameritech customer within Ameritech's operating territory, Ameritech may query its own database, but Ameritech certainly does not pay for that information each and every time it terminates the call. If WorldCom had bulk access to the CNAM database in a downloadable format, it would only pay for the data once for the listing and then for any updates made to that listing, incurring costs for the UNE in a manner similar to the way Ameritech incurs costs to keep and maintain the database.

37. Just as in the case of directory assistance listings, a competitive carrier may wish to obtain the full database in order to avoid the required dip for each and every query. For some CLECs such as WorldCom, the cost of obtaining the full contents of the database and maintaining its own database may be more economical than access that is restricted to a per-dip or per-query basis. Providing the alternative of bulk data provides potential cost savings to CLECs and provides an incentive to Ameritech to avoid setting its database query price too high.

38. The economics of per query versus batch access are not difficult to demonstrate. For example, each WorldCom subscriber typically has a few people that are repeat callers to their WorldCom household. For example, many spouses call each other every day from work. Since WorldCom's access is limited to per query for CNAM information, it would possibly dip and pay Ameritech for access to its CNAM database 20 times a month for the same information. With download access, WorldCom might pay for that same information once.

39. A more extreme scenario happens every day. If an Ameritech customer is a high volume caller like a telemarketer, an opinion pollster or a charity, it may make calls to a thousand WorldCom customers with caller ID across Indiana one evening; on that day alone WorldCom would incur charges

for a thousand dips to Ameritech's CNAM database for the same caller ID information.

40. WorldCom also has to bear other increased costs if its CNAM access is limited to per-query access. From a practical standpoint, requiring WorldCom to dip Ameritech's database or access the database on a "per query" basis only, rather than access its own database, forces WorldCom to pay for two UNEs to get to the same piece of information, as Ameritech Indiana witness Linda DeBella admitted on the record during the Phase II hearings in 40611-S1.¹⁵ WorldCom has its own SS7 network and the capability to query its own database instead of those owned by Ameritech, *if* it can gain access to the CNAM data in a batch download format. Yet, under Ameritech's proposal, WorldCom would be required to pay Ameritech not only for accessing the CNAM data, but also for using Ameritech's SS7 network for purposes of reaching the data. Ameritech should not be permitted to require WorldCom to purchase access to one UNE (i.e., the SS7) in order to reach another UNE (i.e., the CNAM database) – particularly where using Ameritech's SS7 network constitutes the vast majority of the costs of per query CNAM access. Such a scheme subverts Congress's unbundling mandate in TA96 to allow CLECs to access only those portions of the ILEC network they require to provide service to their own customers. In this case, it is only the CNAM data itself to which WorldCom requires access.

41. Such a scheme also forces WorldCom to incur development costs associated with a complex routing scheme within WorldCom's UNE hierarchy to provide quality service to its customers. As Ameritech already has its own database, it does not incur the same costs associated with implementing and maintaining this routing scheme. Thus, the per query form of access is discriminatory, degrades service quality and foists additional costs on CLECs.

42. Allowing full access to the CNAM database means that WorldCom has more control over the quality of the service it offers to its customers. For example, CNAM allows the called customer's premises equipment, connected to a switching system via a conventional line, to receive a calling party's name and the date and time of the call during the first silent interval in the ringing cycle. This is a very limited time frame within which to determine the name associated with the calling number. As the call reaches the terminating switch and a Caller ID request is made, the request must route through the network to reach the database holding the "name" information. WorldCom must first determine which LEC owns the number, then route the call out to that LEC and back to make the dip. If the LEC does not have the name, then exception handling procedures must be used to find the name and the result is finally returned to the called party. The time it takes to route the number request to the correct LEC's database to make the dip, return the request, and provide exception handling when the number is not found in the database cannot always be completed

¹⁵ See Transcript of Phase II Hearings in 40611-S1 at E-4; E-55; E-57; E-59-60.

within the short ring cycle required. If, however, WorldCom maintains its own database, a lengthy step of the process can be eliminated, allowing WorldCom to provide service at least as well as Ameritech provides for itself.

43. Full, or batch-download access to Ameritech's CNAM database also helps to increase innovative and competitive offerings. Not only does limited access to the CNAM database, such as per-query access only, prevent WorldCom from controlling the service quality and management of the database, but such a limitation also restricts WorldCom's ability to offer other innovative service offerings that may be provided more efficiently, quickly, and cheaply. Without competition in this regard, Ameritech has no incentive to upgrade its CNAM service or the technology that drives it.

44. For instance, if WorldCom could operate its own database to support services for its end users, it would not be bound by Ameritech's restrictions and could develop the capability to offer CNAM database services to other carriers via other signaling methods that could be more efficient and less costly. For example, it could offer CNAM over Transmission Control Protocol/Internet Program ("TCP/IP") rather than on the costly Signaling System 7 ("SS7") network. The provisioning of CNAM through TCP/IP might also facilitate the development of new services and the integration of this service with emerging voice over Internet applications. Moreover, Ameritech claims that it has moved its CNAM to an AIN based platform—further evidence that Ameritech can

offer new and innovative services using the database, and preclude WorldCom from doing the same. See Draft Affidavit of W.C. Deere, ¶¶ 263-64.

45. Thus, by enjoying superior access to its CNAM data—data that cannot be accessed or used anywhere else except through access to Ameritech's database on a per-query basis—Ameritech limits WorldCom to an inferior service.

46. In the *Local Competition First Report & Order*, and in the *UNE Remand Order*, the FCC defined call-related databases as those “databases, other than operations support systems, that are used in signaling networks for billing and collection or the transmission, routing, or other provision of telecommunications service.”¹⁶ Certainly CNAM and LIDB are used over signaling networks like the SS7 no matter where the databases reside. In fact WorldCom currently uses SS7 on its own network to deliver caller-ID and call validation from its own LIDB and CNAM databases. But this definition does not confine these databases to one company's SS7 network for the purpose of accessing the information therein. Rather, I believe the FCC's definition is more descriptive than definitive.

47. WorldCom looks access to the line number, 15 digit name identifier, and the privacy indicator associated with the record. Any other

information that Ameritech may hold in its CNAM database is irrelevant for purposes of providing caller-ID services. The fact that Ameritech may hold the CNAM data in its line information database ("LIDB") is also irrelevant since the pertinent data can be extracted from whichever database Ameritech is holding the information.

48. WorldCom, as a telecommunications carrier, is bound by the same laws as Ameritech in protecting proprietary customer information. Any assertion that a download of the CNAM data would somehow violate Ameritech's duty to protect proprietary customer information under Section 222 of TA96 is misleading and ignores the fact that Section 222 of TA96 imposes the same duty on all telecommunications carriers, including WorldCom. Allowing WorldCom to make full use of the data as a UNE as defined under TA96, however, will not change its obligations to comply with the law and similarly protect customer information in the same manner as Ameritech.

49. It is also important to note that as long as WorldCom has the privacy indicator associated with the CNAM record, it will be able to block release of the caller-ID information at the switch the same way Ameritech would. For those customers who have not requested a privacy indicator, they can do so on a per-call basis by dialing *67, the same way Ameritech's customers may do presently.

¹⁶ *UNE Remand Order* at ¶ 403 (citation omitted).

50. At least four state commissions have found that the ILEC is obligated to provide full or batch access to CNAM in a downloadable format. The state commissions in Michigan, Georgia, Tennessee, and most recently Minnesota have found that the ILECs must provide the CNAM database in a downloadable format.¹⁷ In Michigan, WorldCom currently receives Ameritech's Michigan CNAM data in download format. After a few months of working out some of the technical details, WorldCom received its initial information feed in August of 2002.

51. Ameritech was ordered by the Michigan Commission to provide WorldCom with downloadable access to the CNAM database. To comply with that order, Ameritech filed an agreement outlining that such access would be given via File Transfer Protocol ("FTP") access with updates. WorldCom objected to some of the particulars of the proposed agreement, namely the fact

¹⁷ See *In the Matter of the Application of Ameritech Michigan for Approval of Cost Studies and Resolution of Disputed Issues Related to Certain UNE Offerings*, Case No. U-12540 at 21 (March 2001); *Petition of MCI Metro Access Transmission Services, LLC and MCI MCI Communications, Inc. for Arbitration of Certain Terms and Conditions of Proposed Agreement with BellSouth Telecommunications, Inc. Concerning Interconnection and Resale Under the Telecommunications Act of 1996*, Order of Georgia Consumers' Utility Counsel, Docket No. 11901-U at 9 (February 2001); see also, *Excerpt of Directors' Conference, In re Docket No. 00-00309, Petition for Arbitration of the Interconnection agreement Between BellSouth Telecommunications, Inc. and MCI Metro Access Transmission Services, LLC, and Brooko Fiber Communications of Tennessee, Inc., Pursuant to Section 252(b) of the Telecommunications Act of 1996*, p.8, December 18, 2001; and *In the Matter of a Commission Investigation Into Qwest's Compliance with Section 271(c)(2)(B) of the Telecommunications Act of 1996; Checklist Items 3, 7, 8, 9, 10, and 12*, Minnesota Public Utility Commission, Findings of Fact, Conclusions of Law and Recommendations OAH Docket No. 12-2500-14485-2, PUC Docket No. P-421/C1-01-1370,

that Ameritech had refused to provide the database as a UNE. The Michigan PSC agreed and denied Ameritech Michigan's application for 271 approval, in part based on Ameritech Michigan's deficiencies in offering CNAM in a downloadable format. The Michigan PSC, after considering Ameritech Michigan's objections, stated that:

The Commission finds that Ameritech Michigan's argument that the CNAM database is not a UNE must be rejected. In the Commission's view, FCC precedent supports a finding that the CNAM database is a UNE. For example, in Appendix D of the UNE Remand Order, the FCC lists call-related database as a UNE. The FCC held in the same order that call-related databases include the CNAM database. *Id.*, ¶ 406. The Commission need not go through the "necessary and impair" analysis, because the FCC already has completed that analysis and found that CNAM databases are critical for CLECs. *Id.*, ¶ 416. The Commission further rejects Ameritech Michigan's argument that the unbundled element is only "access to" the database and not the database itself. In 47 CFR 51.317(e)(2)(B), promulgated in the UNE Remand Order, the FCC refers to the ILEC's "general duty to unbundle call-related databases."...

* * *

... the proposed tariff attempts to establish restrictions on the use of the CNAM database. The Commission finds that the tariff need not contain restrictions on the use of the CNAM database information. MCI is bound by the same laws as Ameritech Michigan for use of this information. Moreover, the information may be lawfully used only to provide a telecommunications service. However, the ILEC may not impose restrictions on the type of telecommunications service for which a UNE may be used by a CLEC. See, First Report and Order, ¶292.¹⁸

¹⁸ *In the matter, on the Commission's own motion, to consider Ameritech Michigan's compliance with the competitive checklist in Section 271 of the federal Telecommunications Act of 1996*, Opinion and Order, Michigan PSC Case No. U-12320, December 21, 2001, pp. 18-19 [footnotes omitted].

52. Moreover, in Qwest's application for 271 approval in Minnesota, the Arbitrator there found that:

In determining which method is to be used for obtaining interconnection and access to an unbundled network element, an incumbent LEC that denies a request for a particular method of obtaining interconnection or access must prove to the state commission that the requested method is not technically feasible.¹⁹ Qwest concedes that it is technically feasible to provide access in this manner. Qwest accordingly should be required to provide access to the CNAM database by electronic download before the Commission determines that it complies with Checklist Item 10.²⁰ In other words, Qwest's failure to comply with this checklist item can be remedied by requiring Qwest to provide access to the CNAM database by electronic download. Qwest's refusal to provide the database by bulk download is discriminatory in that it allows Qwest to control the type of service that can be derived from the database and conversely precludes CLECs from using the database to develop new services; and it requires CLECs to pay each time the database is queried, whereas Qwest, as the owner of the database, does not "charge" itself for that information every time a call is terminated.²¹

53. WorldCom acknowledges that these states represent the minority view, and that the FCC's Wireline Competition Bureau (the "Bureau") – and not the FCC itself -- has recently considered this issue in the Virginia Arbitration Order, but the Bureau's findings there are not dispositive here. Acting in the stead of the Virginia Commission, the Bureau recently stated that the Act and its rules did not require download access to the CNAM database because the terms

¹⁹ 47 C.F.R. § 51.321(d).

²⁰ State commissions in Michigan and Georgia have required LECs to provide access to the CNAM database by bulk download. The Michigan Public Service Commission denied Ameritech Michigan's application for § 271 approval, in part based on Ameritech Michigan's failure to offer CNAM in a downloadable format. *See In the Matter, on the Commission's Own Motion, to Consider Ameritech Michigan's Compliance with the Competitive Checklist in Section 271 of the Federal Telecommunications Act of 1996*, No. U-12320, December 21, 2001.

²¹ MN CNAM Order at ¶ 152.

of such access are defined under Section 51.319(e)(2)(i).²² However, this pronouncement by the Bureau is not only inconsistent with the FCC's previous rulings regarding access to databases, but in making its determination in an arbitration context, the Bureau did not have at its disposal facts including information highlighting the additional costs borne by CLECs for use of Ameritech Indiana's SS7 network, when another alternative is available and technically feasible. This Commission has an extensively-developed record on that subject from Phase II of IURC Cause No. 40611-S1.²³

54. Although Ameritech Indiana claims otherwise, the Bureau's recent Virginia Order does not preclude the outcome sought by the WorldCom in this proceeding. First, that proceeding was an arbitration relating to WorldCom's interconnection agreement with Verizon, and not a 271 docket, as is the case here. In addition, the record in the Virginia matter did not address Verizon's costs relating to its provision of CNAM access, and did not highlight, as does the record developed by here, and in Phase II of 40611-S1, the fact that a tremendous portion of the per-query CNAM rate is attributable to the use of Ameritech Indiana's SS7 network. That proceeding also did not address the

²² *In the Matter of Petition of WorldCom, Inc. Pursuant to Section 252(e)(5) of the Communications Act for Preemption of the Jurisdiction of the Virginia State Corporation Commission Regarding Interconnection Disputes with Verizon Virginia, Inc., and for Expedited Arbitration*, CC Docket No. 00-218, DA 02-1731 (adopted and rel. July 17, 2002) at 256-58 ("Virginia Order").

²³ WorldCom served discovery in this proceeding on November 25, 2002 asking Ameritech Indiana to produce, *inter alia*, all CNAM-related discovery responses from 40611-S1 in this proceeding. Ameritech Indiana has objected to responding to this discovery and WorldCom and Ameritech Indiana are currently attempting to resolve this discovery dispute.

technical feasibility of bulk download via the FTP, which is how Ameritech Michigan began providing the bulk download this summer.

55. Further, the Virginia Order makes clear that that the arguments in favor of batch download access were “not fully articulate[d]” in that proceeding, and that the Bureau did not feel that there had been a sufficient discussion of the issue, including citations to specific statutory authority, to warrant finding that providing bulk download CNAM access was required under the FCC’s rules and orders.²⁴ Such is not the case here.

56. Additionally, the Virginia Order is completely silent as to the implications of FCC Rule 51.311, governing nondiscriminatory access to UNEs, including the CNAM database. The fact that the Bureau found that Verizon’s per-query CNAM access offering met the requirements of FCC Rule 51.319(e)(2)(i), and that the rule did not require Verizon to provide batch download access in the arbitration context, does not preclude this Commission from requiring bulk download CNAM access as a condition of a positive recommendation to the FCC on Ameritech Indiana’s 271 application after considering the record in this proceeding.²⁵ Not only did the Bureau fail to address the implications of the FCC’s own rule on nondiscriminatory access to UNEs in arriving at its findings in the Virginia Order, there is a fundamental distinction between the FCC requiring one form of CNAM access, and precluding any alternate form of CNAM access.

57. The Virginia Order also does not address the issue of independent state authority to require bulk download CNAM access as a condition for 271 approval, as Michigan and Minnesota have done. Section 251(d)(3) of the 1996 Act provides that the FCC shall not preclude the enforcement of any state commission regulation, order or policy that (A) establishes access and interconnection obligations of ILECs; (B) is consistent with the requirements of § 251; and (C) does not substantially prevent implementation of this section and the purposes of §§ 251-261.²⁶ Similarly, § 261(b) of the Act provides that nothing therein is intended to “prohibit any State commission from ... prescribing regulation ... in fulfilling the requirements of this part, if such regulations are not inconsistent with the provisions of this part.” In addition, the FCC’s implementing orders and rules provide this Commission with the explicit authority to unbundle the ILEC’s network beyond the FCC’s minimum requirements. *See* 47 C.F.R. § 317 (b). WorldCom is currently awaiting the IURC’s Phase II order in Cause No. 40611-S1, which will address the CNAM download issue.

58. Because of the technical difficulty, the higher costs associated with accessing Ameritech’s CNAM on a per query basis, and Ameritech Indiana’s refusal to allow nondiscriminatory download access, WorldCom does not currently access Ameritech Indiana’s CNAM database. Although WorldCom provides a caller ID product to its facilities-based customers, it uses an ANI look-

²⁴ *Virginia Order* at ¶ 522.

up to provide the calling number and originating state (but no caller name) since it does not have the detailed calling name information on the majority of Indiana subscribers as does Ameritech Indiana. Of course, for WorldCom's UNE-P customers, Ameritech Indiana provides the CNAM service because such calls are handled by Ameritech Indiana. Without with download access to Ameritech Indiana's CNAM database, however, WorldCom is forced to provide an inferior service to its facilities-based customers without realizing the type of competitive and innovative services contemplated by the Telecom Act.

59. In summary, because CNAM is a UNE, TA96 requires Ameritech to make this element available in a manner for WorldCom to use it to provision any service it wants to consistent with TA96. This database and the information it contains must also be made available to WorldCom in the same manner as Ameritech makes the information available to itself and other telecommunications carriers. WorldCom respectfully urges the Commission to find that Ameritech cannot act in a discriminatory manner and restrict access to its CNAM database to a per-query or per-dip basis only. Competitors, such as WorldCom, need access to the CNAM database in a bulk, downloadable format that allows for efficient competition and improved service quality to customers. I recommend that the Commission withhold any recommendation that the FCC grant Ameritech 271 authority in Indiana unless and until Ameritech provides download access to the CNAM database as discussed above.

AMERITECH CNAM UPDATE PROBLEMS

60. WorldCom has an additional CNAM-related issue, this time with the way Ameritech provisions CNAM for WorldCom customers calling Ameritech customers. Under certain circumstances, the data Ameritech displays on caller ID terminals to its customers is wrong.

61. There is a specific case in Illinois of a travel agency that is a WorldCom local customer. When this travel agency placed telephone calls to Ameritech local customers and the Ameritech local customers had caller ID with name, the travel agency was being identified as a funeral home. From what WorldCom has been able to determine, this occurred because Ameritech failed to properly update its CNAM database, which is the source of the name displayed in the caller ID with name unit.

62. Another more recent example involves a customer of WorldCom who, despite the fixes Ameritech claimed it made to the customer's incorrect CNAM data, continued to experience the display of incorrect caller ID information. WorldCom was able to trace this problem to a "billing glitch" in Ameritech's system. Although Ameritech would correct its CNAM database, information for the affected company's numbers remained in Ameritech's billing and LIDB databases, which Ameritech uses to update its CNAM data. Every time the information was updated with the outmoded billing information, the incorrect CNAM data appeared on caller ID terminals.

63. While some of the occurrences indicate that it may be a problem with numbers ported to WorldCom from Ameritech, from what WorldCom has been able to learn through the Illinois and Indiana 271 proceedings, there are some WorldCom numbers that Ameritech treats as its own native ANIs when provisioning caller-ID. The excuses WorldCom has received from Ameritech for this problem have ranged from “billing glitches” to laying the blame on WorldCom for not cooperating with Ameritech to identify and delete these WorldCom numbers from Ameritech’s database. In fact, Ameritech has gone so far as to admit that it is “reluctant to simply delete all WorldCom numbers from its CNAM database because of its concern that it could improperly delete some working numbers.”²⁷

64. WorldCom wonders why Ameritech has such a concern for deleting working numbers in its CNAM database that are not Ameritech’s numbers to begin with, and treating them as its own native ANIs. It is WorldCom’s understanding that the problem is caused by Ameritech’s failure to update its CNAM information for customers who are either ported to another CLEC from the ILEC, or from CLEC CNAM information that may have once have been kept in the Ameritech database.²⁸ When Ameritech does not acknowledge that the number in its CNAM database belongs to another CLEC and continues to treat it

²⁷ See, Surrebuttal Testimony of William C. Deere on behalf of Ameritech Illinois, Before the

as a native ANI, it will continue to query its own database and return incorrect or outdated information on the caller ID terminals of its customers.

65. This incorrect display on caller ID terminals with name obviously has a detrimental effect on WorldCom customers. It is also a problem not easily identified because neither WorldCom's customer nor WorldCom is made aware of the problem right away. The only way the problem can be identified, without preemptive and proactive action on Ameritech's part, is when a third party notifies the WorldCom customer that the caller ID with name is displaying the wrong name. This process also assumes that the WorldCom customer then notifies WorldCom. Obviously, there can be long delays in any third party notifying the WorldCom customer about the problem. It is unknown to me what would happen if the Ameritech customer would contact Ameritech customer service.

66. Ameritech's attitude on this issue concerns WorldCom for a number of reasons. First, it is standard industry practice to identify which carrier owns which numbers by looking them up in the LERG database which is updated monthly. To complain that WorldCom is not cooperating with Ameritech in identifying the numbers in Ameritech's own database is disingenuous. Moreover, while this issue has been escalated between WorldCom and Ameritech, as far as I understand it, Ameritech has refused to find a system wide solution to this problem, instead opting to correct these occurrences one by one, as each wrong

piece of data is noticed. WorldCom has even asked for the help of Illuminet, the company that houses WorldCom's CNAM data and who has various contractual relationships with Ameritech for the provision of CNAM data. This approach to the solution has also proved fruitless due to Ameritech's refusal to address the problem on a system-wide basis. Instead, WorldCom must be satisfied with a case-by-case fix when the situation is brought to Ameritech's attention.

67. It is WorldCom's position that the customer should not have to pay the price of this malfunction in Ameritech's system simply because it switches to a competitor of Ameritech's. WorldCom itself should not have to bear the burden of losing customers over this issue either. Yet many of WorldCom's customers blame WorldCom for this problem simply because it is a problem that only originates when a number is ported out by Ameritech to WorldCom.

68. Moreover, these problems also point to a more basic issue in that Ameritech apparently queries its own database for WorldCom numbers rather than querying WorldCom's database housed with Illuminet. This denies WorldCom the revenue for its own CNAM to which it is entitled.

69. Ameritech has refused to face this issue on a system-wide level, instead choosing to address the problem on a case-by-case basis where the chances of identifying the root cause of the problem remain moot remote, yet cause the most impact. Obviously, Ameritech has no interest in making sure that

WorldCom or its customers are treated fairly. For these reasons, I recommend that the Commission withhold any recommendation that the FCC grant Ameritech 271 authority in Indiana unless and until Ameritech fixes this problem. Absent a fix to this problem, Ameritech is knowingly impeding competition in the local market in Indiana, where WorldCom is a very new entrant. The Commission should not allow this situation to fester while Ameritech cavalierly asserts that everything is fine on the access to database front.

NON-DISCRIMINATORY ACCESS TO LIDB²⁹

70. LIDB stands for Line Information Database. It is another of what the FCC has identified as call-related databases and is therefore a UNE like CNAM. This database, unlike CNAM, is used for validating calling cards, collect call and third party call information. When a 0+ or 0- call is initiated, a billing number service ("BNS") validation query is initiated. After checking WorldCom's own internal servers, queries are aggregated by switch location and sent out over the SS7 network to one of several service control points around the country hosting a LIDB database. The query provides ANI information from both caller and recipient, as well as the point code from the originating carrier to identify which entity is initiating the query. Once received, the LIDB database provider initiates a positive or negative authorization code. The call proceeds if a positive response code is received and blocked if a denied response code is returned.

²⁹ Ameritech's use restrictions on LIDB are also applied to CNAM. Because WorldCom does not order CNAM from Ameritech on a per-query basis, my testimony will cover the use restriction as it applies to LIDB only.

71. The issue is that Ameritech Indiana currently limits WorldCom's use of its LIDB database as a UNE only in those cases where WorldCom would use it for the provision of local service. In those cases where it would be used by WorldCom to validate non-local calls, Ameritech Indiana does not treat LIDB as a UNE and charges a significantly higher, non-TELRIC based price for a database query. As with DAL, LIDB pricing was not at issue in Phase II of IURC Cause No. 40611-S1, and I do not address pricing under Checklist Item 2 here, but rather only non-discriminatory LIDB access under Checklist Item 10.

72. This restriction is discriminatory because the unbundling provisions of TA96 specifically give CLECs the right to use unbundled network elements "for the provision of a telecommunications service," and in no way limit the use to local services only. The Commission reaffirmed that TA96 meant what it said in the *Local Competition Order*, rejecting the ILECs' view "that we should read into the current statute a limitation on the ability of carriers to use unbundled network elements, despite the fact that no such limitation survived the Conference Committee's amendments to the 1996 Act." *Local Competition Order* at ¶ 359. This holding was then affirmed in the *UNE Remand Order*, where the Commission once again expressly refused to read a use restriction into TA96 *UNE Remand Order* at ¶ 484. This straightforward understanding of section 251(c)(3) is then codified in 47 CFR § 51.309(a), which specifies that "an

the use of unbundled network elements that would impair the ability of a requesting telecommunications carrier to offer a telecommunications service in the manner the requesting telecommunications carrier intends.”

73. In its *Supplemental Order* and *Supplemental Order Clarification* the FCC imposed a temporary use restriction only on certain loop transport combinations in order to consider the ramifications on universal service of bulk conversions of access services to such loop transport combinations, and in particular to consider whether CLECs would be impaired without access to such loop-transport combinations used in this manner. But it in no way retracted its previous understanding of TA96 that UNEs can be used for any telecommunications purpose. Under TA96, Ameritech Illinois cannot direct how WorldCom uses an unbundled network element to provide telecommunications services. Ameritech Indiana’s attempt to restrict WorldCom’s use of the LIDB database imposes a restriction on WorldCom that is contrary to TA96 and the Commission’s regulations.

74. Ameritech has recently transferred the Ameritech LIDB database to the SNET DG.³⁰ WorldCom believes that this transfer is an attempt to play “hide-the-ball” with the UNE.

³⁰ See Draft Affidavit of William Deere at ¶ 259.

75. While Ameritech is required by the FCC's *UNE Remand Order* and Section 51.319(e)(2)(A) of the FCC's Rules to provide access to call-related databases as a UNE, Ameritech has placed ownership of and, arguably, control over access to the CNAM/LIDB databases with an unregulated entity, SNET DG, thus calling into question Ameritech's ability to fulfill its obligation to provide WorldCom with nondiscriminatory access to call-related databases in a manner that "promotes the ability of new entrants and established competitors to provide service in the local exchange market." *See, UNE Remand Order* at ¶ 411.

76. Moreover, such surrender of a UNE to an unregulated subsidiary clearly violates the spirit if not the letter of *ASCENT v FCC*, in which the Court of Appeals for the D.C. Circuit noted that "to allow an ILEC to sideslip Section 251(c)'s requirements by simply offering telecommunications services through a wholly-owned affiliate seems to us a circumvention of the statutory scheme." *Association of Communications Enterprises v. Federal Communications Commission*, 235 F.3d 662, 666 (D.C. Cir., 2001). Indeed, it enables Ameritech to claim that it cannot provide WorldCom with the type of access to which WorldCom is entitled because it does not have control over the data. The Commission should not countenance such gamesmanship with respect to UNEs that are so integral to local competition.

77. It also calls into question whether Ameritech would pay its subsidiary SNET DG the same rates for non-local LIDB as it would charge

WorldCom. I can illustrate how this transfer will affect the LIDB UNE. WorldCom was approached by SNET DG regarding a LIDB service where it would charge WorldCom at least \$0.06 per query for LIDB. This rate would presumably be a market-based rate, instead of the Indiana rate for LIDB of \$0.014490 for validation and \$0.000017 for LIDB transport. WorldCom is concerned that this means it may no longer access LIDB as a UNE at TELRIC rates in Indiana.

78. To summarize, Ameritech's use restrictions on LIDB are unwarranted and contrary to TA96 and FCC requirements. Ameritech Indiana's contention that it has a right to impose this use restriction on LIDB is especially outrageous in light of its bid to enter into the long distance market, since it would presumably not charge itself higher access fees to complete long distance calls. The FCC expressly named LIDB a database subject to unbundling, and it did so knowing full well that virtually the only application of LIDB is to provide access services, since very little local calling is done with a calling card. Ameritech Indiana's claim that the FCC unbundled LIDB but somehow implicitly proscribed virtually all of its known uses strains credulity. Ameritech Indiana's imposition of this type of a use restriction on LIDB is little more than a stealth effort to eliminate LIDB from the list of unbundled network elements altogether. Such a result should be remedied before Ameritech Indiana itself can use the database to provide long distance services, unfettered by higher costs, for exactly the same purposes that all FNs will access the database. Accordingly, the Commission should withhold any recommendation that the FCC grant Ameritech 271 authority

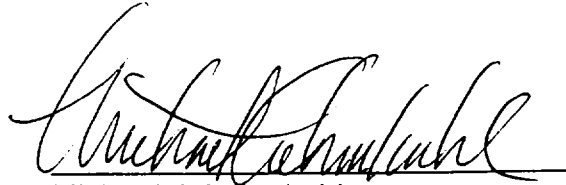
in Indiana unless and until Ameritech Indiana removes use restrictions from the LIDB database.

CONCLUSION

Although Ameritech claims that it provides nondiscriminatory access to its DAL, CNAM and LIDB databases, thereby satisfying checklist items 7 and 10, my testimony shows that this is not always the case. Moreover, WorldCom continues to have problems with Ameritech in resolving issues related to these databases. Lastly, because these databases are UNEs, WorldCom must be able to use these databases without restriction and obtain them at cost-based rates if Ameritech is to be deemed to be providing non-discriminatory access to them and if WorldCom is to compete effectively in the local market. If not, WorldCom will be at a severe competitive disadvantage if Ameritech is then allowed to use these databases in the provision of long-distance service in Indiana. Until Ameritech Indiana remedies the issues identified herein, the Commission should decline to make a positive recommendation to the FCC on Ameritech Indiana's Section 271 application.

Further affiant sayeth not.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

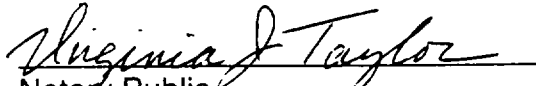


Michael J. Lehmkuhl

STATE OF *VIRGINIA*

COUNTY OF *LOUDOUN*:

Subscribed and sworn to before me
This *2nd* day of *December* 2002.



Notary Public

Virginia J. Taylor
NOTARY PUBLIC
Commonwealth of Virginia
My Commission Expires 4/30/05

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

**IN THE MATTER OF THE PETITION OF INDIANA
BELL TELEPHONE COMPANY, INCORPORATED,
D/B/A AMERITECH INDIANA PURSUANT TO
I.C. 8-1-2-61 FOR A THREE-PHASE PROCESS
FOR COMMISSION REVIEW OF VARIOUS
SUBMISSIONS OF AMERITECH INDIANA TO
SHOW COMPLIANCE WITH SECTION 271(c) OF
THE TELECOMMUNICATIONS ACT OF 1996**

CAUSE NO. 41

AFFIDAVIT OF JOAN CAMPION

On Behalf of WorldCom, Inc.

December 11. 2002

I. INTRODUCTION

1. My name is Joan Campion. I am employed by WorldCom, Inc. (WorldCom) and my address is 205 North Michigan Avenue, Suite 1100, Chicago, Illinois 60601. I currently serve as Vice President of Public Policy for WorldCom's Midwest and Northeast Regions, which include the states of Illinois, Michigan, Ohio, Wisconsin and Indiana, as well as the Verizon states. Prior to this position, I was the Regional Director of Public Policy for the Midwest Region. In these positions, which I have held for more than five years, I am responsible for developing and implementing WorldCom's public policy positions before the state commissions and legislatures in these states, including efforts to ensure that the provisions of the Telecommunications Act of 1996 are fully implemented.

2. I hold a bachelor's degree from Mary Washington College in Fredericksburg, Virginia, and I earned my Juris Doctor from the University of Dayton School of Law, Dayton, Ohio. I joined MCI Telecommunications Corporation in 1991 as a Senior Attorney with responsibility for representing MCI before state commissions in the states of Pennsylvania, New Jersey and Delaware. Before joining MCI, from 1989 until 1991, I served as Executive Director and Legal Counsel to the Consumer Affairs Committee in the Pennsylvania House of Representatives. In this position, I was responsible for legislation and advising the House of Representatives on all issues under the jurisdiction of the Pennsylvania Public Utility Commission. From 1985 until 1988, I served as an Assistant Consumer Advocate in the Pennsylvania Office of Consumer Advocate. In this position, I represented the

interests of residential consumers before the Pennsylvania Public Utility Commission.

3. I have testified before the Illinois Commerce Commission and the Public Utilities Commission of Ohio in the proceedings on the SBC/Ameritech merger. I have also testified on access charges before the Public Service Commission of Wisconsin, and filed initial and reply affidavits in the Wisconsin 271 proceeding. I have testified on numerous occasions before legislative committees in my region.

II. PURPOSE OF AFFIDAVIT

4. My affidavit demonstrates that the Indiana Utility Regulatory Commission ("Commission") should: (1) include as a part of its analysis of the extent to which the local market in Indiana is "fully and irreversibly open" to competition an examination of SBC's recent full-fledged assault on the continued availability of the UNE Platform ("UNE-P") and UNE pricing, as well as Ameritech's compliance or lack of compliance with Commission orders and state laws aimed at opening the market to competition; (2) find that the remedy plan ordered by the Commission in this proceeding on October 16, 2002 ("Remedy Plan Order") is necessary to ensure that Ameritech Indiana provides nondiscriminatory access to Unbundled Network Elements ("UNEs") and does not "backslide" on its performance after it receives authority to provide interLATA services in Indiana; and (3) determine that the Total Element Long Run Incremental Cost ("TELRIC") pricing for UNEs and interconnection that comes out of IURC Cause No. 40611-S1 should be capped for a period of five years

from the time Ameritech receives authority to provide in-state, interLATA services in Indiana.

5. Because substantive comments on the specifics of UNE pricing have been deferred to a later phase of this proceeding (after the issuance of the pending order in Phase II of IURC Cause No. 40611-S1), my affidavit comments on TELRIC pricing only generally, to the extent that it relates to the public interest requirement of § 271(d)(3)(C). This issue dovetails into the public interest requirement because it is inextricably tied to the existence and sustenance of local competition – a local market “fully and irreversibly open to competition.”

6. As I discuss in further detail below, the Commission should not recommend that the FCC grant an application by Ameritech Indiana to provide in-state, interLATA services in Indiana unless and until the issues that I have addressed, and the issues that are addressed by other WorldCom and competitive carriers’ witnesses, have been fully resolved to the Commission’s satisfaction. Only then will the Commission be able to say with confidence that the local market in Indiana is fully and irreversibly open to competition, and that granting Ameritech Indiana’s Section 271 application would be in the public interest.

III. IN ASSESSING THE PUBLIC INTEREST REQUIREMENT, THE COMMISSION SHOULD CONSIDER SBC’S RECENT FULL-FLEDGED ASSAULT ON THE UNE PLATFORM AND TELRIC PRICING, AS WELL AS ITS COMPLIANCE WITH ORDER AND LAW

SBC’S Recent Anticompetitive Advocacy

7. One issue that the Commission should consider in its analysis regarding Ameritech Indiana's 271 application is the remarkable campaign that SBC Communications, Inc. ("SBC"), Ameritech Indiana's corporate parent, has recently launched against the continued availability of the UNE Platform, as well as against the UNE pricing decisions that have come out of the states, and out of the Ameritech region in particular. SBC has employed a panoply of means by which to execute its full-scale legal, legislative, political, and public relations assault on the continued availability of the UNE-Platform ("UNE-P") to competitors. For the sake of economy, I will not detail all of its actions one-by-one, but SBC's methods have included frequent FCC and state commission filings, meetings with commissioners and legislators, advertisements in newspapers and on television, and promotion of union activities antithetical to the promotion of competition. All of these efforts are targeted at curtailing the continued availability of the UNE-P to competitors, and drastically raising UNE rates. Thus, while relying upon competitors' UNE-P entry to demonstrate that the local telephone market in Indiana market is fully and irreversibly open, SBC/Ameritech is simultaneously trying to eradicate the possibility of local telephone competition via the UNE-P in the immediate future.

8. On September 28, 2002, SBC announced that unfair regulation and TELRIC pricing were forcing it to lay off approximately 11,000 of its workers. While SBC has been publicly bemoaning the "necessity" of these layoffs, it has simultaneously painted a rosy economic picture for its investors.¹

¹ See SBC Presentation at Banc of America Securities Conference, September 23, 2002.

9. Furthermore, while broadcasting a near-constant barrage of complaints regarding all matters relating to local competition, SBC has actually run the hypocritical print advertisement attached as Exhibit 1 hereto, depicting its competitors "cry babies" who are pillaging SBC in the competitive local market. The Commission should acknowledge this sort of rhetoric for what it is: childish, ironic and patently anti-competitive.

10. Very recently, on November 18, 2002, SBC submitted a plan for the "Development of a Sustainable Wholesale Model" in an *ex parte* to the FCC.² This plan is nothing more than a plan geared at remonopolizing the local phone market, because it proposes a transition away from the UNE-P at rates that violate TELRIC principles upheld by the U.S. Supreme Court in May of this year, but that would be cost-prohibitive of competitors such as WorldCom remaining in the local exchange services marketplace. SBC plainly believes that the only sustainable wholesale model is a non-existent one.

11. This Commission also needs to be cognizant of the effects that SBC's anti-competitive response to the first glimmers of competition -- if successful -- will have on the local telecommunications marketplace in Indiana. As mentioned above, without the availability of the UNE-P at TELRIC-based rates, competitors such as

² See "Development of a Sustainable Wholesale Model," attached to Ex Parte Letter from Jay Rennett, SBC, to Marlene H. Dortch, CC Docket No. 01-338 (November 19, 2002). A copy of SBC's ex parte submission to the FCC is available online at: http://gulfoss2.fcc.gov/prod/ecfs/retrieve.cgi?native_or_pdf=pdf&id_document=6513387157.

WorldCom will be forced to exit the market, because they cannot operate at anything other than a loss under the SBC transition plan filed with FCC.³

12. SBC has informed its investors that the 11,000 job cuts mentioned above will be targeted in the states where UNE-P pricing is lowest, which would include Indiana.⁴ This means that wholesale service quality will be at greater risk (due to lower numbers of SBC/Ameritech personnel to serve wholesale customers) in states where local competition is more likely to develop due to UNE-P rates that make competition viable. Coupled with SBC's efforts to poison its union members against the CLEC community by blaming competitors' "below cost" access to UNEs for the layoffs, the result may be that the remaining employees will give SBC/Ameritech and its retail customers preferential treatment, thereby detrimentally impacting CLECs' service quality, and consequently, the survival of local competition.

Compliance With Orders and Laws

13. Ameritech seems to believe that anything beyond federal law (encompassing the Telecommunications Act, FCC orders and the 14-point checklist), is irrelevant to this proceeding, but I disagree. The Indiana Commission has rendered many decisions on issues of great import to local competition. Whether Ameritech has complied with such orders is, I believe, directly relevant to whether the local market in Indiana is irreversibly open to competition. If the

³ See Letter from Donna Sorgi, Vice President, Federal Advocacy for WorldCom, to the Honorable Michael Powell, Chairman, Federal Communications Commission, CC Dkt. No. 01-338 (November 25, 2002), attached as Exhibit 2. WorldCom's ex parte submission to the FCC of November 25, 2002, is also available at:

http://gullfoss2.fcc.gov/prod/ecfs/retrieve.cgi?native_or_pdf=pdf&id_document=6513388965.

⁴ See SBC 2002 Q3 Earnings Investor Update slide presentation, October 24, 2002 at p. 16, copy attached as Exhibit 3. This presentation is also available at:

http://www.sbc.com/Investor/Financial/Earning_Info/docs/3Q_02_slide_bw.pdf.

Commission is expected to intelligently consult with and advise the FCC regarding the extent to which the local market in Indiana is open to competition, it must do so not only within the context of the minimum requirements of federal law, but also within the context of additional state requirements, and the public interest.

14. Although the Commission has issued its March 28, 2002 Order in Phase I of the Indiana UNE pricing docket (Cause No. 40611-S1) (the "Phase I Order")⁵ outlining the Commission's findings on the subject of just and reasonable rates for certain UNEs, CLECs still will not know what UNE rates they will be required to pay in Indiana for some time. First, the Phase I Order is currently on appeal in both state and federal court because Ameritech Indiana has challenged the rates derived there.⁶ Second, the parties are still awaiting an order in Phase II of the Indiana UNE pricing docket, which will address the availability and pricing for various UNEs with enormous competitive import, including the unbundling of Project Pronto, loop conditioning (and qualification), line sharing and line splitting, subloops, the engineer controlled splice ("ECS"), CNAM access and OS/DA branding. Even after that order issues, Ameritech Indiana will have to make a voluminous compliance filing, and will likely appeal, and these subsequent proceedings will take additional time.

15. We have seen considerable efforts on Ameritech's part in other states to fight the implementation of UNE rates every step of the way. For example,

⁵ Order, *In the Matter of the Commission Investigation and Generic Proceeding on Ameritech Indiana's Rates for Interconnection, Service, Unbundled Network Elements, and Transport and Termination Under the Telecommunications Act of 1996 and Related Indiana Statutes*, IURC Cause No. 40611-S1 (March 28, 2002).

⁶ *Indiana Bell Telephone Company, Inc. d/b/a Ameritech Indiana v. Indiana Utility Regulatory Commission, et al.*, Indiana Court of Appeals Case No. 93A02-0204-EX-344 and *Indiana Bell Telephone Company, Inc. d/b/a Ameritech Indiana v. McCarty et al.*, U.S. District Court for the Southern District of Indiana Civil Action No. IP 02-0656-C-B/S.

Ameritech's intransigence and refusal to comply with past Commission orders is the main reason that the Illinois TELRIC compliance docket has been going on for nearly five years, certainly with respect to nonrecurring charges for new and additional lines served via the Unbundled Network Element Platform ("UNE-P"). It is dismaying, to say the least, that nearly five years after the issuance of the original Ameritech TELRIC Order on February 17, 1998 in Illinois Commerce Commission Docket No. 98-0396 (hereinafter referred to as the "TELRIC Order"), Ameritech continues to flout Commission directives and drag out issues related to the nonrecurring charges that CLECs should expect to pay for combinations of UNEs. But that is exactly what has happened. There is no question in my mind that dilatory tactics on establishing TELRIC rates has impeded the development of competition in the local telecommunications market there, as well as increased costs for CLECs, and delayed the availability of telecommunications services to consumers. I expect to see some of the same conduct here in Indiana.

16. I should add that Ameritech Illinois' conduct is certainly not due to any uncertainty in the applicable orders of the Illinois Commission. The TELRIC Order was clear with respect to Ameritech's obligation to file cost studies and support any nonrecurring charges related to combinations of UNEs set forth in its contracts:

The essence of the remaining issue between the parties appears to be whether (and which) nonrecurring charges should apply when a competitor purchases particular combinations of unbundled network elements. We conclude that the parties have not provided sufficient information in this record to enable us to render a decision on this matter. We direct Ameritech Illinois to submit additional testimony in the next stage of this proceeding (at the time it submits its proposed compliance tariff filing) which addresses, for each

UNE combination identified by AT&T/MCI and WorldCom: 1) a description of the extent to which the separate elements of each combination are combined in Ameritech Illinois' own network for its own use; 2) the separate unbundled element prices which Ameritech Illinois proposes would apply to a purchase of the combination; 3) a description of any additional activities and the costs of those activities which are required to provide each unbundled element combination where recovery of the costs of those activities is sought; 4) an identification of each nonrecurring charge which Ameritech Illinois proposes would or may apply to the purchase of the UNE combination; including an identification of all nonrecurring charges which Ameritech Illinois proposes would or may apply to the situation where an end user's existing service is converted "as is" to a new entrant and 5) a description of the basis for calculation of each nonrecurring charge which Ameritech Illinois proposes would or may apply. Ameritech Illinois may submit any cost studies that it believes support its proposals.

Illinois TELRIC Order, February 17, 1998, pp. 125-126.

17. Ameritech Illinois fully understood that the TELRIC Order directed it to provide cost studies and testimony related to existing and new combinations of UNEs. In its Application for Rehearing of the TELRIC Order, Ameritech complained that:

...the Commission's requirement that Ameritech Illinois provide additional testimony and cost studies concerning certain unbundled network element combinations (Order, p. 125) rests on the false premise that Ameritech Illinois still may be required to provide unbundled network element combinations.[footnote omitted] As Chairman Miller correctly stated 'this Commission should not be imposing prices on combinations which we have no authority to require.' (Order, Miller Dissent, p. 3). For the reasons stated above and in Ameritech Illinois' supplemental memoranda, the Commission's premise – as well as the testimony and cost studies that the Commission ordered Ameritech Illinois to provide – is contrary to law. Because Ameritech Illinois may not be legally required to combine unbundled network elements on behalf of CLECs or to provide CLECs with preassembled unbundled network element combinations, there is no lawful basis for the Order's requirement of

additional testimony. Accordingly, the Commission should grant rehearing and amend the Order to hold that, consistent with Iowa Utilities Board, Ameritech Illinois is not required to combine network elements for CLECs or provide CLECs with existing, preassembled combinations, or submit additional testimony and cost studies on network element combinations.[footnote omitted]

Application for Rehearing of Illinois Bell Telephone Company, Docket Nos. 96-0486 and 96-0569 (consol.), filed March 9, 1998, p. 8.

18. Despite the clarity of the Illinois Commission's directives,⁷ and an obvious understanding of the implications of those directives, Ameritech made a strategic decision to withhold evidence in the form of testimony and cost studies in Docket 98-0396 – specifically cost studies and testimony supporting nonrecurring rates related to new combinations of UNEs. It was only after the Commission issued its Order in Docket 98-0396 on October 16, 2001 that Ameritech sought to demonstrate nonrecurring costs that are purportedly associated with certain “new” combinations of UNEs. Because of Ameritech's intransigence, final TELRIC nonrecurring rates for “new” combinations of UNEs will likely not be established in Illinois for another year or more.

19. This Commission will recall that Ameritech Indiana did the same thing in Phase I of the UNE pricing docket here, prompting the Commission to state as follows:

*Next, we turn to what that flat-rate charge should be. As with our resolution of Non-Recurring Costs above, we are again confronted with the peculiar position of Ameritech that our Orders in this Cause did not require the filing of cost studies upon which to base the charge for unbundled ports. To revisit that specific language again, we instructed the parties on August 29, 2001 that this Cause would address “the rate for unbundled local switching (ULS), including the port and usage **costs**, if*

⁷ While the Commission amended the TELRIC Order on April 6, 1998, to make the order final and to clarify the level of the interim rate it had set for shared transport, the Commission made clear that in all other respects the February 17, 1998 TELRIC Order was to remain in full force and effect. Amendatory TELRIC Order, Docket Nos. 96-0486 and 96-0569 (consol.), April 6, 1998, p. 1.

any...[emphasis added].” This directive in our August 29th Order was in response to a Motion for Clarification of AT&T/WorldCom which requested that this Commission recognize that Ameritech’s new switch vendor contracts and the new ULS-ST cost studies impact both the line port charge and the switch investment costs, and as such both types of costs should be addressed in this Cause. We agreed and so ordered that both the port and usage costs, if any, would be addressed. In response, Ameritech filed no cost studies in support of its port charge. As Dr. Currie indicated on cross-examination, we are “not going to find something that isn’t there.” (Tr. 114, l. 2-8)

Indeed, Ameritech only filed one cost study in this phase of the proceeding dealing with unbundled local switching-shared transport (“ULS-ST”). (Tr. 114, l. 14-15) We find this curious, especially since pleadings filed by the Company earlier in this proceeding indicated that it would file “20 to 25 cost studies.” *As we indicated with NRCs above, we will not allow Ameritech’s failure to submit cost data to hinder our review of this issue. Our direction to file cost studies was clear. Ameritech had the option to either file cost studies or not. It did not. Similarly, if Ameritech found our Order to be ambiguous in any way, it could have asked for clarification. It did not. We can only surmise that Ameritech has chosen to forego that opportunity and the opportunity to file cost studies. Therefore, we will proceed to decide this issue on the evidence before us.* In so doing, we will fully consider Ameritech’s position that the existing rate for unbundled ports should remain in effect.⁸

20. This Commission should adopt the recommendations set forth in this Affidavit to prevent Ameritech from similarly impeding implementation of the Commission’s mandates in Indiana.

21. It is also essential that this Commission be cognizant of the impact Ameritech Indiana’s zeal for appealing virtually every Commission order has on Ameritech’s application for 271 approval in Indiana. As I discussed above, Ameritech Indiana relies on certain Commission findings – for example the Commission’s setting of certain TELRIC rates -- in its attempt to demonstrate that the local market in Indiana is open to competition. *See, e.g.,* Draft Brief in Support

of Application by SBC Communications, Inc., Ameritech Indiana, and Ameritech Long Distance for Provision of In-Region, InterLATA Services in Indiana, pp. 18-20.

22. While Ameritech Indiana relies on such certain Commission findings to make its 271 showing, as described above, it has in many instances directly attacked those same findings and decisions in its constant appeals of this Commission's orders. Indeed, Ameritech has challenged many of pro-competitive decisions of this Commission to which Ameritech points as supporting its claims of checklist compliance, including but not limited to the crucial UNE pricing and Remedy Plan Orders.

23. Since the FCC has found that it "must make certain that the BOCs have taken real, significant, and irreversible steps to open their markets" before authorizing 271 entry,⁹ I do not understand how Ameritech can point to Commission decisions in support of its 271 ambitions on the one hand, and the on the other directly attack the order on which it relies. In my view, it is hypocritical of Ameritech to rely on any Commission decisions -- whether they be FCC or IURC decisions -- that it is actively seeking to overturn.

24. This Commission has made great efforts to open the local market to competition in Indiana in numerous proceedings. Yet, as detailed above, Ameritech is trying to undo this good work while at the same time trying to advance the

⁸ See Phase I Order at 33 (internal footnotes omitted).

⁹ Federal Communications Commission Memorandum Opinion and Order, *In re Section 271 Application of Ameritech Michigan to Provide In-Region, InterLATA Services in Michigan*, CC Docket No. 97-137, 12 F.C.C.R. 20543 (Aug. 19, 1997) ("Michigan Order"), at para. 18. Similarly, the U.S. Department of Justice has stated that 271 applications "should be granted only when the local markets in a state have been fully and irreversibly open to competition." See DOJ evaluation of Louisiana's first application, at iii, 1-2, and DOJ's evaluation of the second Louisiana application, at 1.

argument in the present proceeding that the nascent local market in Indiana is now irrevocably open to local competition. The Commission should ask itself just how “irreversible” the steps that have been taken truly are in light of Ameritech’s continuing attacks on the very decisions to which it points for support, and for which it seeks a reversal of this Commission’s findings.

25. Indeed, Ameritech Indiana should make clear for the Commission exactly which FCC and Indiana Commission orders it has appealed and what its intentions are in the event it is successful in its attacks on those orders. It may be that Ameritech is willing to withdraw its outstanding appeals if it truly wants to demonstrate the irreversible steps to opening markets that the orders represent. Absent such a discussion by Ameritech, there will be a cloud hanging over those decisions it has appealed unless and until Ameritech’s threat to have those decisions overturned is eliminated.

26. If Ameritech Indiana is unwilling to withdraw these appeals voluntarily, then in order to curtail Ameritech’s ongoing efforts to eradicate the remedy plan approved by the Commission and to undo the Commission’s costing decisions, I recommend that the Commission require Ameritech to drop, at a minimum, its pending appeals of the UNE pricing and remedy plan orders, and refrain from appealing the upcoming Phase II order in Cause No. 40611-S1 as a condition of receiving a favorable review of its Section 271 application. Therefore, until the following cases are voluntarily dismissed with prejudice, the Commission should refrain from supporting Ameritech Indiana’s Section 271 Application before the FCC:

- *Indiana Bell Telephone Company, Inc. d/b/a Ameritech Indiana v. Indiana Utility Regulatory Commission, et al.*, Indiana Court of Appeals Case No. 93A02-0204-EX-344 (State court appeal of Phase I Order)
- *Indiana Bell Telephone Company, Inc. d/b/a Ameritech Indiana v. McCarty et al.*, U.S. District Court for the Southern District of Indiana Civil Action No. IP 02-0656-C-B/S. (Federal court appeal of Phase I Order)
- *Indiana Bell Telephone Company, Inc. d/b/a Ameritech Indiana v. McCarty et al.*, Indiana Court of Appeals Case No. 93A02-0211-EX-950 (State court appeal of Remedy Plan Order)
- *Indiana Bell Telephone Company, Inc. v. Indiana Utility Regulatory Commission et al.*, U.S. District Court for the Southern District of Indiana, Indianapolis Division Civil Action No. 1:02-CV-1772-LJM (Federal court appeal of Remedy Plan Order)

27. This recommendation is particularly imperative with respect to the pending appeals of the Remedy Plan Order, as no state commission has supported a 271 application where the ILEC at issue was not subject to a remedy plan. Nor has the FCC ever granted 271 approval without an effective remedy plan in place. It is critical that this Commission withhold its support of Ameritech Indiana's 271 application unless and until the remedy plan approved by this Commission in the Remedy Plan Order is fully implemented and safe from being vacated. Until Ameritech Indiana complies with these conditions, the Indiana Commission should reject Ameritech's bid for approval to provide in-state, interLATA services in Indiana, and make clear that Ameritech Indiana will not receive such approval from the Commission.

IV. THE COMMISSION SHOULD REQUIRE AMERITECH INDIANA TO IMPLEMENT THE REMEDY PLAN ORDERED IN THIS PROCEEDING IN ORDER TO OBTAIN A POSITIVE RECOMMENDATION ON ITS APPLICATION FOR AUTHORITY TO PROVIDE INTERLATA SERVICES IN INDIANA

28. As the Commission is aware, its Remedy Plan Order is currently the subject of a rehearing motion, as well as both state and federal court appeals. This issue is relevant to the public interest analysis that this Commission must undertake. It would be a mistake for this Commission to accept for 271 purposes the vastly inferior “Texas-style” remedy plan originally proposed by Ameritech Indiana in this proceeding and rejected by this Commission, or to accept Ameritech Indiana’s suggestion that as an alternative, the Commission adopt the remedy plan interconnection agreement amendment with Time Warner Telecom that was recently submitted for Commission approval and subsequently transformed into a docketed proceeding.¹⁰ WorldCom has filed comments identifying the anticompetitive and discriminatory flaws in this proposed amendment, as well as how it injures the public interest, and urges the Commission to consider those comments in conjunction with its public interest analysis here.

29. The Commission has already determined that the remedy plan ordered on October 16, 2002 is necessary to ensure that Ameritech Indiana provides nondiscriminatory access to Unbundled Network Elements (“UNEs”) and does not “backslide” on its performance after it receives authority to provide interLATA services in Indiana. A remedy plan must ensure compliance with and enforcement of minimum wholesale service quality performance. The Commission should determine that the public interest demands the plan that it ordered previously is a condition of a positive § 271 recommendation on behalf of Ameritech Indiana.

30. Ameritech Indiana’s position on the remedy plan issue is unreasonable. Essentially, Ameritech Indiana’s position is that anything it does with respect to remedy

¹⁰ See Docket Entry Dated November 20, 2002 in IURC Cause No. 40572-INB162.

plans is voluntary and all of the work and resources that were expended by Ameritech, CLECs, Staff and the Commission in this proceeding that led to the Remedy Plan Order were a total waste of time. Ameritech Indiana seems to believe that Ameritech, CLECs, Staff and the Commission must start from a clean slate and go back to square one – that being Ameritech's proposed modified Texas remedy plan. The purpose of such an exercise escapes me. It requires the Commission, Staff and other parties to duplicate efforts in litigating the merits of Ameritech's modified Texas remedy plan, increasing costs to all involved and frustrating efforts to remove uncertainty that Ameritech alone is casting over the remedy plan that will finally be adopted by the Commission. I therefore recommend that the Commission simply decide that the remedy plan it adopted is the remedy plan that should remain in effect on a going forward basis if Ameritech Indiana wishes to obtain a positive recommendation regarding authority to provide in-state, interLATA services here.

31. With respect to the anti-backsliding requirements, the Commission should recommend that Ameritech's 271 application with the FCC be approved only if the October 16, 2002 remedy plan is applied to ensure that Ameritech will continue to comply with market-opening requirements in the future. Absent that remedy plan, the Commission should decline to recommend that Ameritech Indiana's 271 application be granted.

V. THE COMMISSION SHOULD REQUIRE AMERITECH INDIANA TO CAP ITS TELRIC PRICING FOR UNES AND INTERCONNECTION FOR A PERIOD OF FIVE YEARS AS A CONDITION OF A POSITIVE RECOMMENDATION ON ITS § 271 APPLICATION

32. The attempts to evade the application of pricing decisions and increase wholesale rates to inappropriate levels discussed above are not anomalies. I have recently seen similar obstreperous conduct in Ohio, Michigan and Illinois, in addition to here in Indiana (parties to the pending TELRIC docket in Wisconsin are still awaiting a compliance order there, or I would likely be seeing such actions there too).

33. As this Commission is aware, on February 8, 2002, Ameritech Indiana improperly sought to double loop rates here by filing testimony on the subject in a TELRIC proceeding where loop rates were not even one of the issues under consideration. As a result of a CLEC motion to strike, the Commission struck the offending testimony and exhibits from the record, curtailing, at least for the moment, Ameritech Indiana's attempts to pursue bloated loop rates here.¹¹ However, the CLECs cannot guarantee that Ameritech Indiana will not simply redouble its efforts on this front by filing a new application in Indiana to increase loop rates, just as Ameritech Ohio has done.

34. On May 31, 2002, Ameritech Ohio filed an application¹² to, *inter alia*, double loop rates and increase *seventeen-fold* the UNE migration charge in Ohio on the heels of the Ohio Commission's October 4, 2001 TELRIC

¹¹ See Order dated March 7, 2002, *In the Matter of the Commission Investigation and Generic Proceeding on Ameritech Indiana's Rates for Interconnection, Service, Unbundled Elements, and Transport Under the Telecommunications Act of 1996 and Related Indiana Statutes*, Indiana Utility Regulatory Commission Cause No. 40611-S1 (Phase II).

¹² SBC Ameritech Ohio's Application for Approval of Unbundled Network Element Prices, *In the Matter of the Review of Ameritech Ohio's TELRIC Costs for Unbundled Network Elements*, Public Utilities Commission of Ohio Case No. 02-1280-TP-UNC, dated May 31, 2002.

Order in Public Utilities Commission of Ohio Case No. 96-922-TP-UNC

(proceeding captioned *In the Matter of the Review of Ameritech Ohio's Economic Costs for Interconnection, Unbundled Network Elements, and Reciprocal Compensation for Transport and Termination of Local Telecommunications Traffic*), which order was affirmed on rehearing on January 18, 2002.

35. Ameritech's boldness in attempting to collaterally attack the Ohio TELRIC order while simultaneously pressing forward with its 271 application there is indicative of the inherent conflict between its twin goals of quashing local competition and qualifying for entry into the long distance market. More importantly, it highlights that there is nothing to stop Ameritech Indiana from making a similar collateral attack on the UNE Order here once final rates have been approved and tariffed.

36. Ameritech Illinois and Ameritech Michigan have also recently undertaken similar efforts to increase wholesale rates by enormous orders of magnitude while simultaneously seeking to press their 271 applications in those states based upon *existing* rates.

37. Ameritech Michigan sought to increase UNE rates in a proceeding filed on August 30, 2002, while simultaneously urging the MPSC to issue its 271 recommendation by the end of 2002. The MPSC swiftly dismissed Ameritech Michigan's application with prejudice on September 16, 2002, and required that any subsequent application identify (1) "cost changes attributable to increases or decreases in costs," (2) "changes attributable to

changes in the cost methodology,” and (3) “changes attributable to a decision to seek a modification of a prior Commission determination on an issue.”¹³

38. Ameritech Illinois sought to increase UNE and interconnection prices by tremendous orders of magnitude in its September 4, 2002 filing with the Illinois Commerce Commission (“ICC”), and sought acceptance of its proposed rate increases by October 20, 2002.¹⁴ Some of the rates Ameritech Illinois sought to increase were only months or weeks old. The proposed increases would have had a substantial adverse impact on the ability of CLECs to compete in the local market – for example, Ameritech Illinois proposed loop rate increases of 468%, 354% and 251% respectively in access areas A, B and C. The company also sought, in direct contravention of prior ICC orders, to increase the rates for unbundled local switching (“ULS”) and shared transport (“ST”), and to impose a per minute of use rate for ULS and ST. Ameritech Illinois also sought to increase the UNE-P migration charge from \$1.02 to \$12.72, a 1,247% increase over the cost-based rate established by the ICC less than a year earlier (after extensive proceedings). Notably, the company did not allege that its costs had *increased*, but rather, it claimed that its current rates were *below cost*, despite six years of ICC orders to the contrary. It was only when Ameritech Illinois

¹³ See Order, MPSC Case No. U-13518/U-13531, *In the matter of the application of SBC Ameritech Michigan for approval of revised cost studies related to certain telecommunication services and In the matter, on the Commission's own motion, to review the costs of telecommunication services provided by Ameritech Michigan*, September 16, 2002, copy available on-line at <http://www.cis.state.mi.us/mpsc/orders/comm/2002/U-13518etal.pdf>

¹⁴ See Ameritech Illinois Advice No. IL-020607 UNE Rate Increase Tariff, filed September 4, 2002, copy available on-line at http://www.sbc.com/Large-Files/RIMS/Illinois/Filing_Log/02-09-04-il-02-607.pdf. Ameritech Illinois later supplemented this Advice with Advice No. IL-02-1528 on September 27, 2002.

realized that its application had little chance of success before the ICC that it withdrew the proposed tariff on October 15, 2002 in favor of returning “in three to four weeks” with a revised proposed tariff.

39. To alleviate these types of concerns, this Commission could, and should, determine that existing TELRIC rates be capped for a period of time – say five years – since the telecommunications industry is a declining cost industry and the synergies from the SBC/Ameritech merger should further ensure that shared and common costs are going down. It is in the public interest to ensure that Ameritech Indiana does not obtain 271 approval based on a snapshot in time, and then turn around and seek rate increases that would effectively put its competitors out of business.

40. This solution seems fair in light of the time it has taken, and continues to take, to get TELRIC rates established here and in other Ameritech states, and in light of Ameritech’s demonstrated propensity to impede the establishment of TELRIC rates. More importantly, this solution will provide CLECs and the Commission a level of comfort that there will be certainty with respect to TELRIC rates for some time to come, thereby helping to ensure that the local market will remain “irreversibly open” going forward. Without such assurances, the Commission is fully justified in declining to recommend that the FCC grant Ameritech Indiana’s application to provide in-state, interl ATA telecommunications services pursuant to Section 271 of the Telecommunications Act of 1996.

Further affiant sayeth not.


I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.


Joan M. Campion

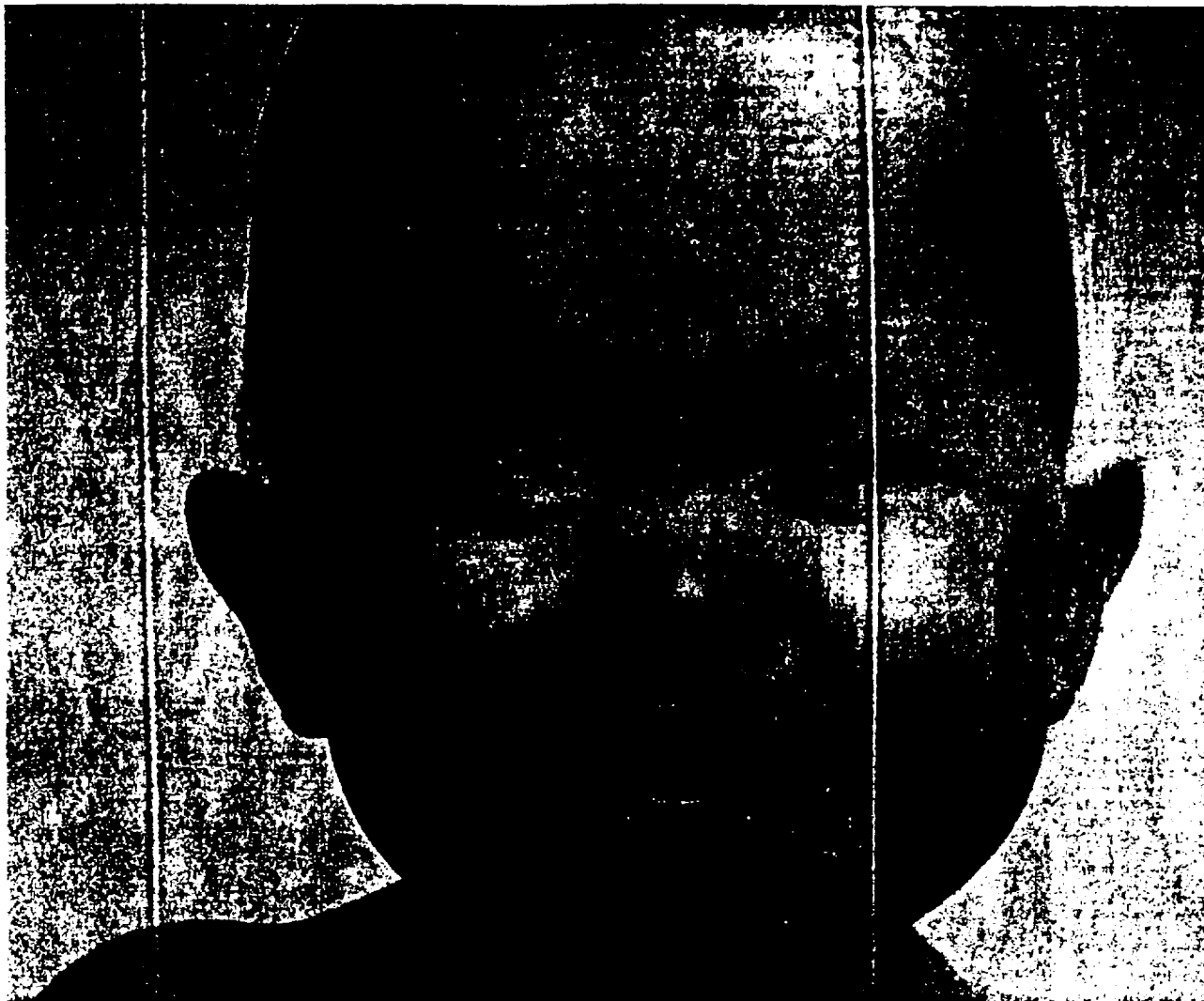
STATE OF ILLINOIS

COUNTY OF COOK

Subscribed and sworn to before me
This 2nd day of December, 2002.


Notary Public





They hide behind a lot of different names. But none is more accurate than "Cry Baby."

We just don't understand why AT&T, MCI WorldCom and others are whining and complaining about their position in the local phone market.

After all, they make big profits on the backs of the good, union workers of SBC. We lease our lines to them at some of the lowest rates in the country, and they sell the service at a profit.* They invest almost nothing in the network.* Pay us less than what we spend to maintain it.

And cry all the way to the bank.



Donna Sorgi
Vice President
Federal Advocacy

1133 19th Street, N.W.
Washington, DC 20036
202 887 3351
Fax 202 887 3211

November 25, 2002

The Honorable Michael Powell
Chairman
Federal Communication Commission
445 12th Street, SW, Room TWB-204
Washington, DC 20554

Re: SBC Proposal With Respect to UNE-P

Dear Chairman Powell:

On November 18, 2002, SBC offered a proposal with respect to the unbundled network elements platform (UNE-P) that is transparently anticompetitive.¹ There are two ways to kill incipient local mass markets competition: eliminate UNE-P or price UNE-P at levels that prohibit competitive entry. SBC has proffered both. Simply stated, SBC's recommended approach completely ignores the statute, and seeks outright elimination of competition in the residential and small business mass market. Had SBC actually sought to be constructive, it would have made a proposal that addresses the major stated objectives of the Commission in this proceeding: (1) fostering mass market competition; (2) promotion of facilities deployment; and (3) consistency with the *USTA* decision.² The SBC proposal furthers none of these objectives.

Residential and small business customers currently enjoy robust competition for long distance services, and are just beginning to see competition take hold for local services, as competitive carriers offer UNE-P-based services, such as MCI's The Neighborhood. SBC's proposal for a "Sustainable Wholesale Model" would reverse these encouraging developments and effectively extinguish residential and small business competition for both local and long distance services. SBC and other incumbent local exchange carriers (LECs) would no longer face competition to serve small business customers, as the SBC proposal would reverse immediately all incumbent LECs' obligations to provide UNE-P for business customers. Competition to serve residential customers would also disappear because SBC's proposed wholesale rate of \$26 for the equivalent of UNE-P would eliminate any realistic opportunity for sustainable entry by competitors. Indeed, the SBC *ex parte* provides absolutely no legal or economic

¹ See "Development of a Sustainable Wholesale Model," attached to *Ex Parte* Letter from Jay Bennett, SBC, to Marlene H. Dortch, CC Dkt. No. 01-338 (Nov. 19, 2002).

² *USTA v. FCC*, 290 F.3d 415 (D.C. Cir. 2002).

explanation for its selection of \$26. Rather than achieving its purported goal of a sustainable wholesale market, SBC's proposal instead would achieve a sustainable monopoly market by insuring that local services revert to SBC's singular control.

Consider the implications of SBC's proposal in its own region. SBC's proposed \$26 rate represents, on average, a 33% increase in the cost-based UNE-P rates established by the state commissions throughout SBC's region.³ It is even \$6 more than the rate that SBC told investors was reasonable.⁴ SBC's proposed rate is also at or above the retail residential revenue stream available to competitors offering UNE-P-based service in every state in the SBC region.⁵ In the face of negative margins, MCI and other carriers currently offering competitive residential local service would be forced to withdraw their offerings. Consequently, customers seeking local/long distance packages or "any distance" service would have a choice of one carrier: SBC.

SBC's proposal also has the deleterious effect of decreasing, rather than increasing, the likelihood of local facilities deployment for mass market services. Today, competitors cannot access switching from alternative sources because, among other things, SBC and the other incumbent LECs have not designed scalable and efficient loop provisioning processes. The record in this proceeding contains overwhelming evidence

³ The average UNE-P rate in SBC's region is \$19.52.

⁴ SBC completely fails to justify its proposed rate and also ignores its prior statements that a \$20 UNE-P rate would be reasonable and offer competitors a meaningful opportunity to compete. See Banc of America Securities Equity Research U.S., Research Brief, SBC Communications Inc., Highlights from the BAS 32nd Annual Investment Conference, at 1-2 (Sept. 23, 2002), attached to *Ex Parte* Letter from Christopher J. Wright, Counsel to Z-Tel Communications, to Marlene Dortch, CC Dkt. No. 01-338 (Sept. 30, 2002); see also *Ex Parte* Letter from Joan Marsh, AT&T, to Marlene Dortch, CC Dkt. No. 01-338, at 1 (Nov. 21, 2002) (estimating that SBC's proposed rate would result in an average net margin available to competitors across all SBC states of negative 31%); UBS Warburg Global Equity Research Report, *Telco Wake-Up Call*, at 2 (Nov. 21, 2002) ("Increasing the rates competitors are charged by 63% (based on our estimate for an average UNE-P rate of roughly \$16/month) as the proposed plan suggests would make it uneconomical").

⁵ The Bell Operating Companies have argued that state commissions are setting UNE rates at levels that are lower than incumbent LEC costs, in order to create a margin between those UNE rates and retail rates, and that the state commissions should instead raise retail rates. The more likely explanation is that the state commissions have concluded that incumbent LECs' forward-looking costs are in fact lower than the costs advocated by the incumbent LECs, and have set the UNE rates properly. It seems highly unlikely that *every* state commission in SBC's region has gotten UNE rates wrong, as SBC would like the FCC to believe.

that there are a series of economic and operational barriers to entry that must be reduced substantially or eliminated before competitive carriers can execute business plans that depend on the use of their own local facilities (*e.g.*, through UNE-L) in order to serve mass market customers.⁶ SBC's proposal would do nothing to erode or eliminate these deterrents to entry. Instead, its proposal would eliminate the only entry vehicle that has enabled local mass markets competition which, if permitted to develop, will result in new facilities deployment. Consequently, SBC's proposal would completely undermine the Commission's efforts to promote the deployment of additional local facilities.

Finally, SBC's proposal does not even pretend to be consistent with the *USTA* court's instructions with respect to the impairment analysis required by the statute. The *USTA* decision explicitly states that Congress made "'impairment' the touchstone" of the analysis under Section 251(d)(2).⁷ SBC, however, does not explain how, on the basis of this record, the Commission could possibly conclude on a nationwide basis that in two years, requesting carriers would not be impaired without access to unbundled switching. The *USTA* court also directed the FCC to ensure that the impairment analysis is conducted in a geographically granular manner. Here, by contrast, SBC proposes to eliminate access to unbundled switching on a nationwide basis by a date certain, without regard to individual circumstances.

In short, SBC's proposed "solution" to the UNE-P debate clearly would spell the end of residential and small business competition for both local and long distance services. The Commission should summarily reject this proposal and entertain proposals that are legal, based in fact, and that will lead to additional facilities-based competition.

Respectfully submitted,

/s/ Donna Sorgi
Donna Sorgi

⁶ See *Ex Parte* Letter from Marc Goldman, Counsel to WorldCom, to Marlene Dortch, at 3-7 (Nov. 13, 2002) (summarizing the record in the *UNE Triennial* proceeding with respect to the impairment analysis for switching).

⁷ *USTA v. FCC*, 290 F.3d at 425.

Investor Update

October 24, 2002



2002 Q3 Earnings

Agenda

Ed Whitacre

Randall Stephenson

3Q Overview

3Q Results

Qs and As



2002 Q 3 Earnings

Cautionary Language Concerning Forward-Looking Statements

Information set forth in this presentation contains financial estimates and other forward-looking statements that are subject to risks and uncertainties.

A discussion of factors that may affect future results is contained in SBC's filings with the Securities and Exchange Commission. SBC disclaims any obligation to update and revise statements contained in this presentation based on new information or otherwise.



third-quarter **Overview**

Ed Whitacre



2002 Q 3 Earnings

third-quarter **results**

Randall Stephenson



2002 Q 3 Earnings

Reported Results

(in millions except per-share amounts)

Revenues	\$ 10,556
Cash Operating Expenses	\$ 6,287
Total Operating Expenses	\$ 8,435
Net Income	\$ 1,770
Earnings Per Diluted Share	\$ 0.53



2002 Q 3 Earnings

Normalizing Factors

(in millions except per-share amounts)

Revenues		Earnings		EPS
Reported		Reported		
	\$10,556		\$1,770	\$0.53
	2,225	Force reductions	125	0.04
60% of Cingular's revenues		International gains and charges	(212)	(0.06)
Normalized	\$12,781	Normalized	\$1,683	\$0.51



2002 Q 3 Earnings

Normalized Results

(in millions except per-share amounts)

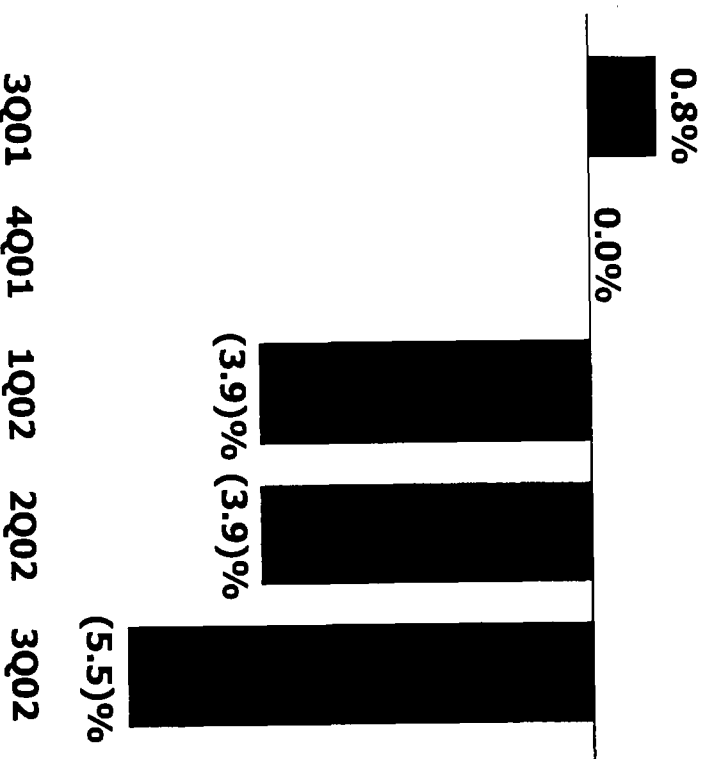
		Change from 3Q01
Revenues	\$12,781	(5.5) %
Cash Operating Expenses	\$ 7,651	(3.0) %
EBITDA Margin	40.1%	(160) bp
Net Income	\$ 1,683	(15.8) %
Earnings Per Diluted Share	\$ 0.51	(13.6) %



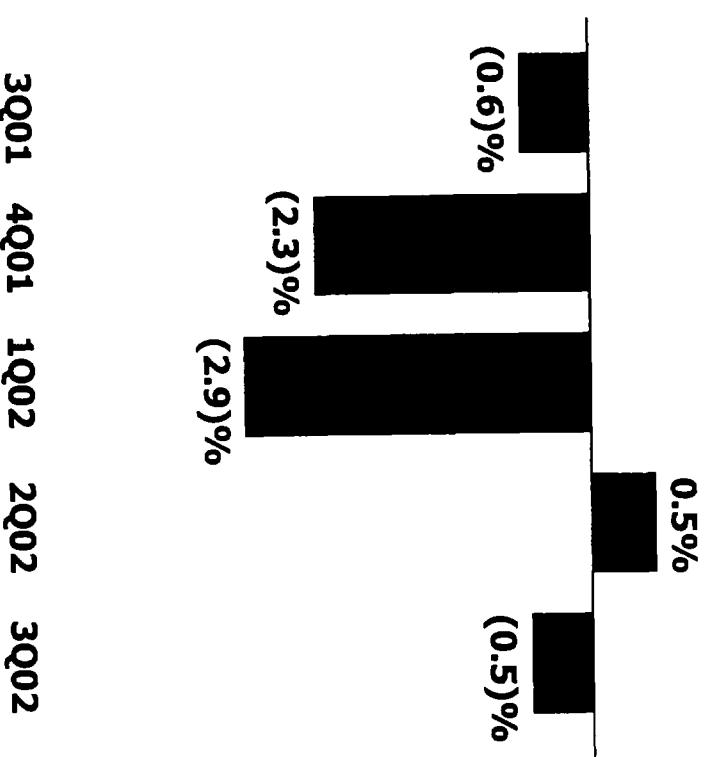
2002 Q 3 Earnings

Revenue Trends

Consolidated Revenues YOY Growth



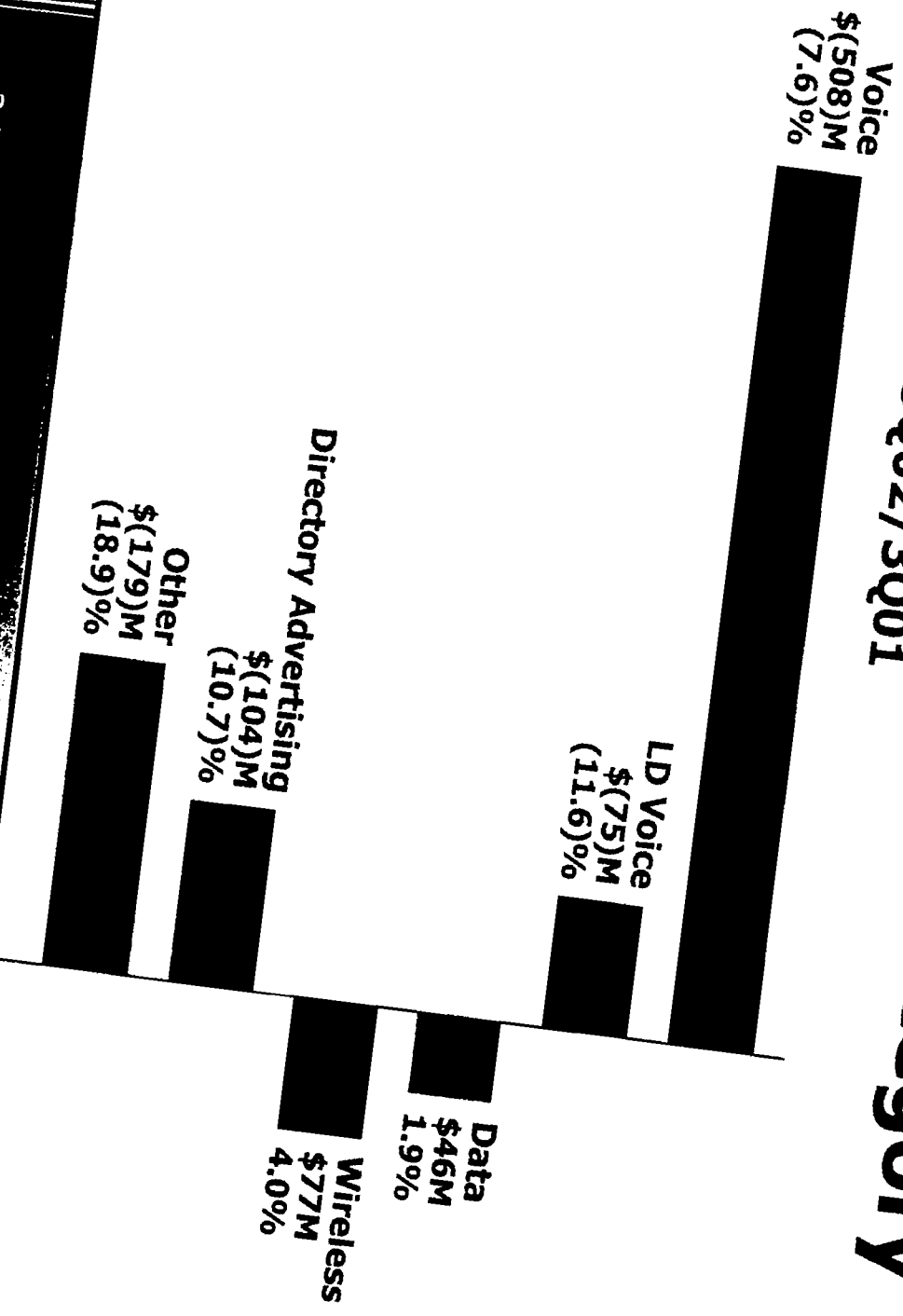
Consolidated Revenues Excluding Directory Sequential Growth



2002 Q 3 Earnings

Revenue by Product Category

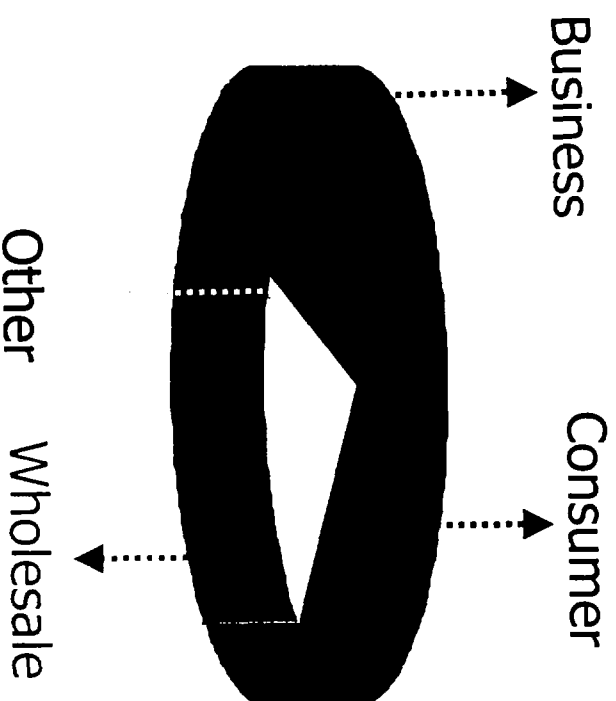
YoY Difference - 3q02/3q01



2002 Q 3 Earnings

Voice Revenue Growth by Customer Segment

Segment Revenue Mix 3Q02



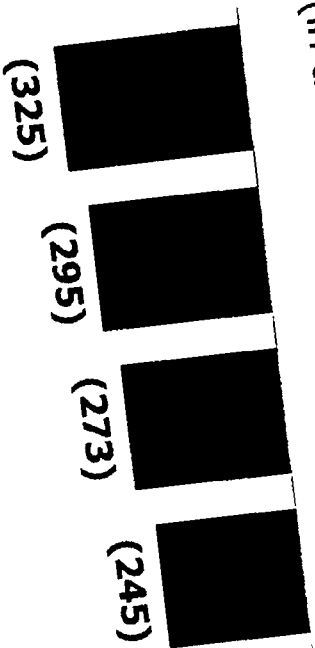
YOY Growth Rates	
3Q02	2Q02
Consumer (8.3)%	(4.4)%
Business (8.0)%	(13.7)%
Wholesale 2.0 %	(4.6)%



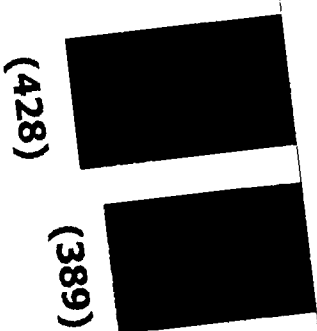
2002 Q 3 Earnings

Retail Access Line Trends

Business Non-ISDN Quarterly Change (in thousands)



Consumer Quarterly Change (in thousands)



4Q01 1Q02 2Q02 3Q02

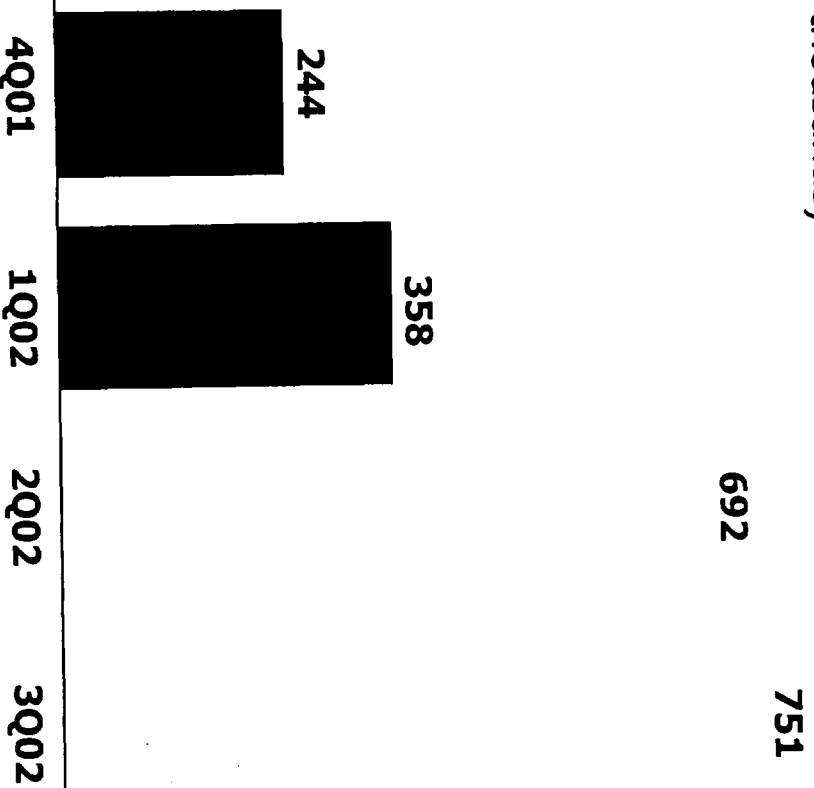
4Q01 1Q02



2002 Q 3 Earnings

UNE-P Trends

Quarterly Change in UNE-P Lines (in thousands)



- Nearly 90% of 3Q net UNE-P change was consumer
- 82% of the 3Q UNE-P line change came from 5 lowest-priced states
- SBC currently operates without LD freedom in all of these states



2002 Q 3 Earnings

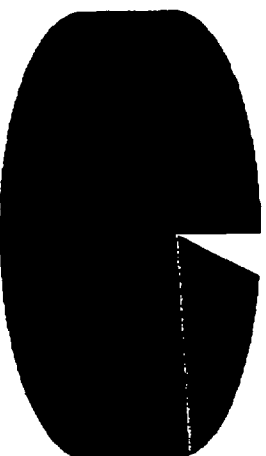
UNE-P by Region

Quarterly Change in UNE-P Lines

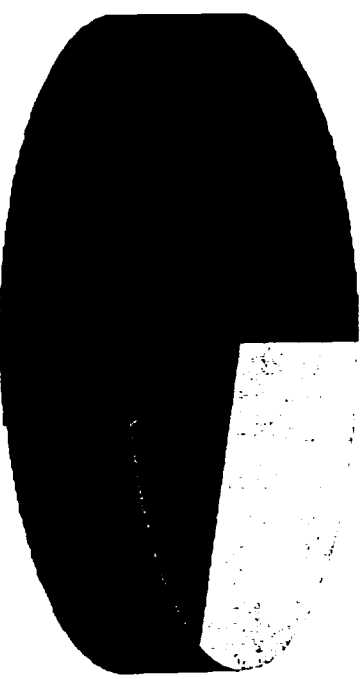
3Q00
256,000



3Q01
399,000



3Q02
751,000



■ SBC Ameritech

SBC Pacific Bell

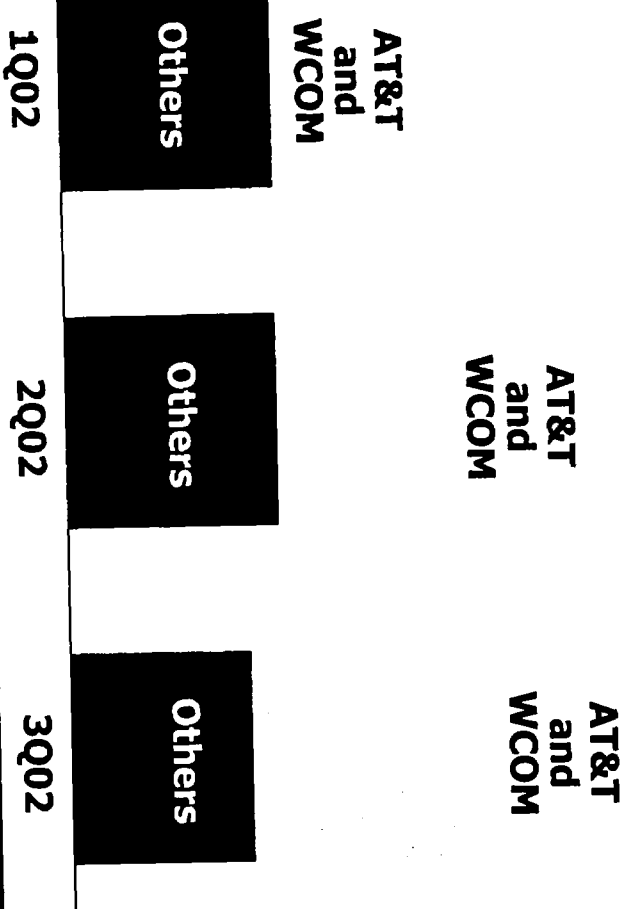
■ SBC Southwestern Bell



2002 Q 3 Earnings

Users of UNE-P

Quarterly Change in UNE-P Lines



More than 75% of SBC's UNE-P lines added in 3Q02 were for the two largest IXCs

From 1Q02 to 3Q02, UNE-P lines added for AT&T and WorldCom/MCI more than tripled while UNE-Ps added by others actually declined



SBC Initiatives

Regulatory

Meetings with FCC and key state regulators
Cost studies

Costs

Additional 11,000 force reduction
Additional 11,000 force reduction
Cuts proportionately greater in states with lowest UNE-P
Lowering cap ex to about \$5 billion in 2003

LD Entry

California
Ameritech states

Marketing Initiatives

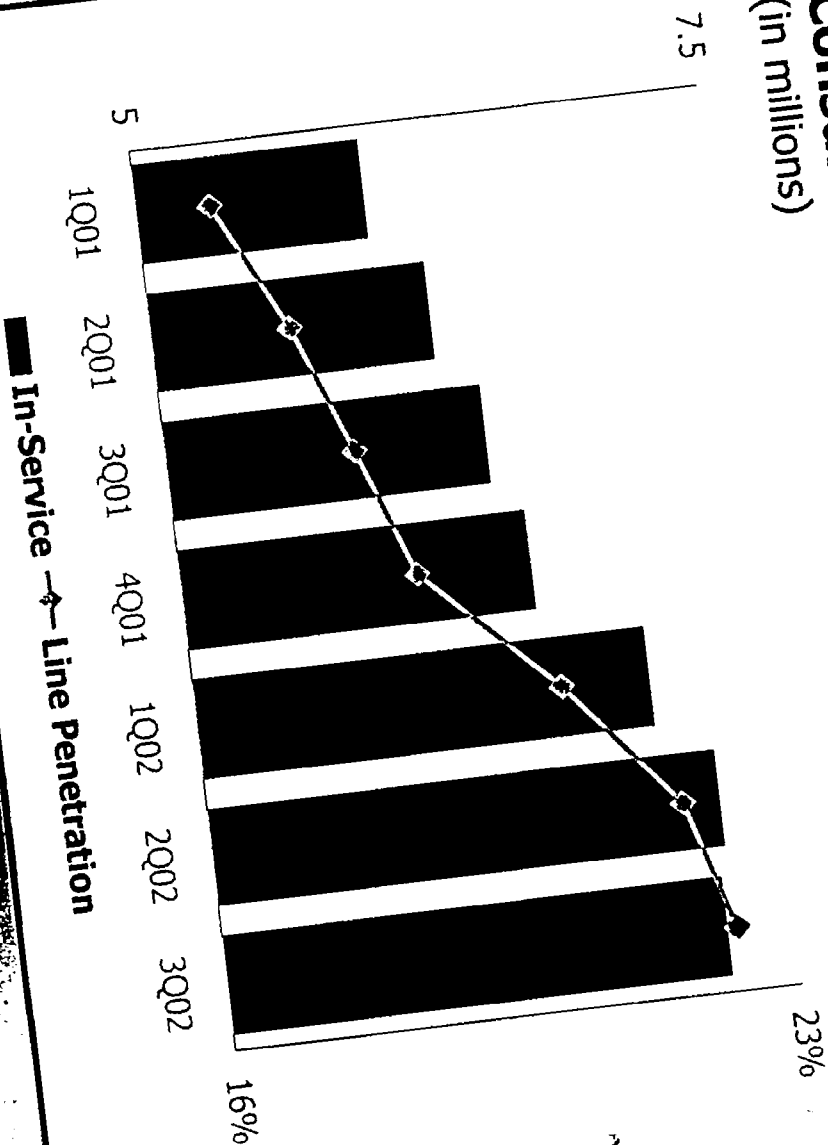
Aggressive product bundling
Expanded winback, retention efforts



2002 Q 3 Earnings

Growth in Consumer Bundles

Consumer Bundles In-Service
(in millions)



- >7 million consumer bundles in service ... up 13% over past year
- 400 bp increase in line penetration versus ...
- Newer bundles provide greater product choice



2002 Q 3 Earnings

Extensive Product Bundling

Products Available for Bundling

	SBC SoftInvestment Bill	SBC Benefit Bill	SBC Amortized
Local services	✓	✓	✓
Investment in R&D	✓		
Investment in capital	✓	✓	✓
Investment in personnel	✓	✓	✓
Investment in infrastructure	✓	✓	✓

- Savings grow with more services in bundle
- Responding to customer requirements
- Flexibility and choice
- Savings
- One bill
- One stop
- Video available through EchoStar*

* Billed separately by EchoStar



2002 Q 3 Earnings

Texas Consumer Offer

Texas Consumer Bundle – \$95

Cingular Wireless

- 250 peak minutes
- 1,000 nights and weekends

DSL

- \$29.95 for 12 months
- \$39.95 after 12 months

LD

- 200 minute block of time
- \$0.08 per minute after allotment

Vertical Features

- Caller ID and Call Waiting
- Privacy Manager

Local Voice

- Access line
- Unlimited local usage

- Total bundle price of \$95 per month

- Optional EchoStar service for \$27.95 per month with local programming

- Customers have flexibility to add features or expand calling plans



2002 Q 3 Earnings

Long-Distance Growth

InterLATA
LD Lines



InterLATA+Intl.
LD Revenues



Plan to enter C
LD market by
of this year

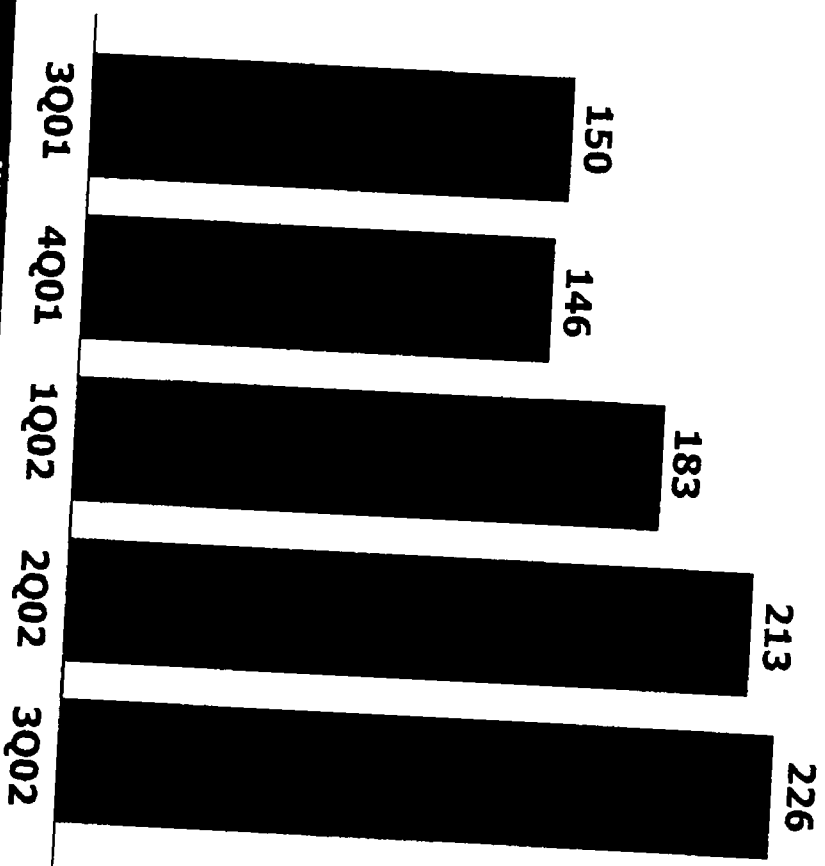
Project state
for the five A
states in the
of 2003



2002 Q 3 Earnings

Strong DSL Growth

DSL Net Adds
(in thousands)



- 2 million subscriber milestone reached in October
- >50% growth in net adds versus 3Q01
- 3 consecutive quarters with sequential growth in net adds
- Robust value proposition
 - SBC Yahoo! Portal
 - Speed Tiers



2002 Q 3 Earnings

Data Growth

Data Revenue Growth
3Q02 YOY



Data Transport
Revenue Growth Rates

	YOY
SBC	3.3%
Consumer	47.0%
Business	(1.4)%
Wholesale	3.3%

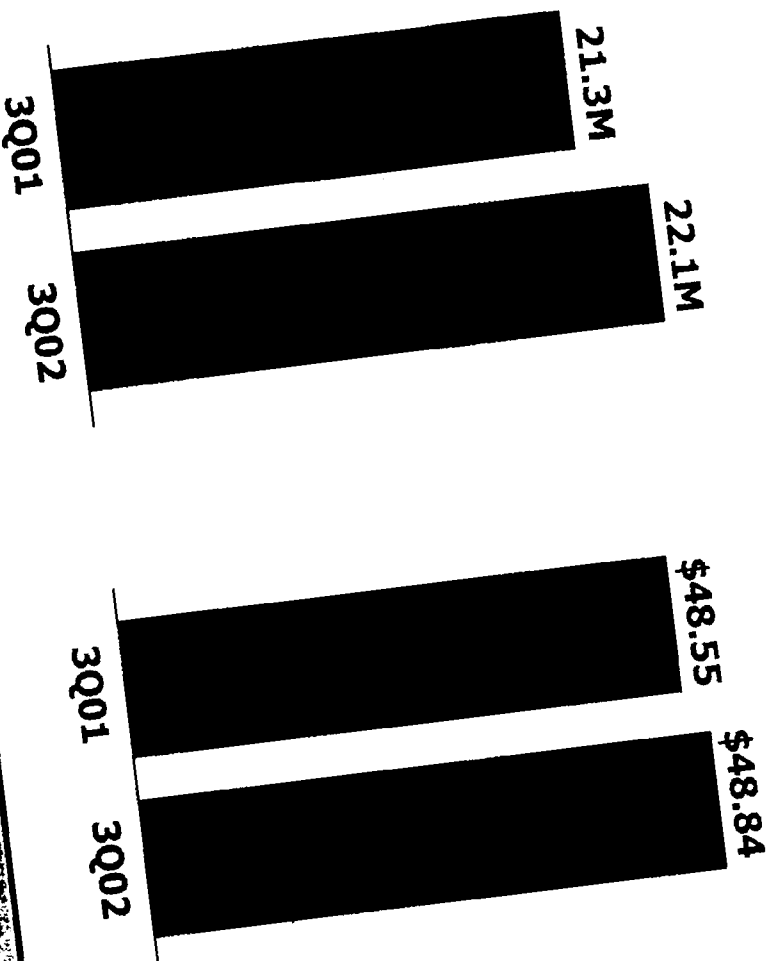


2002 Q 3 Earnings

Cingular Growth

Subscribers

Subscriber ARPU
(monthly)



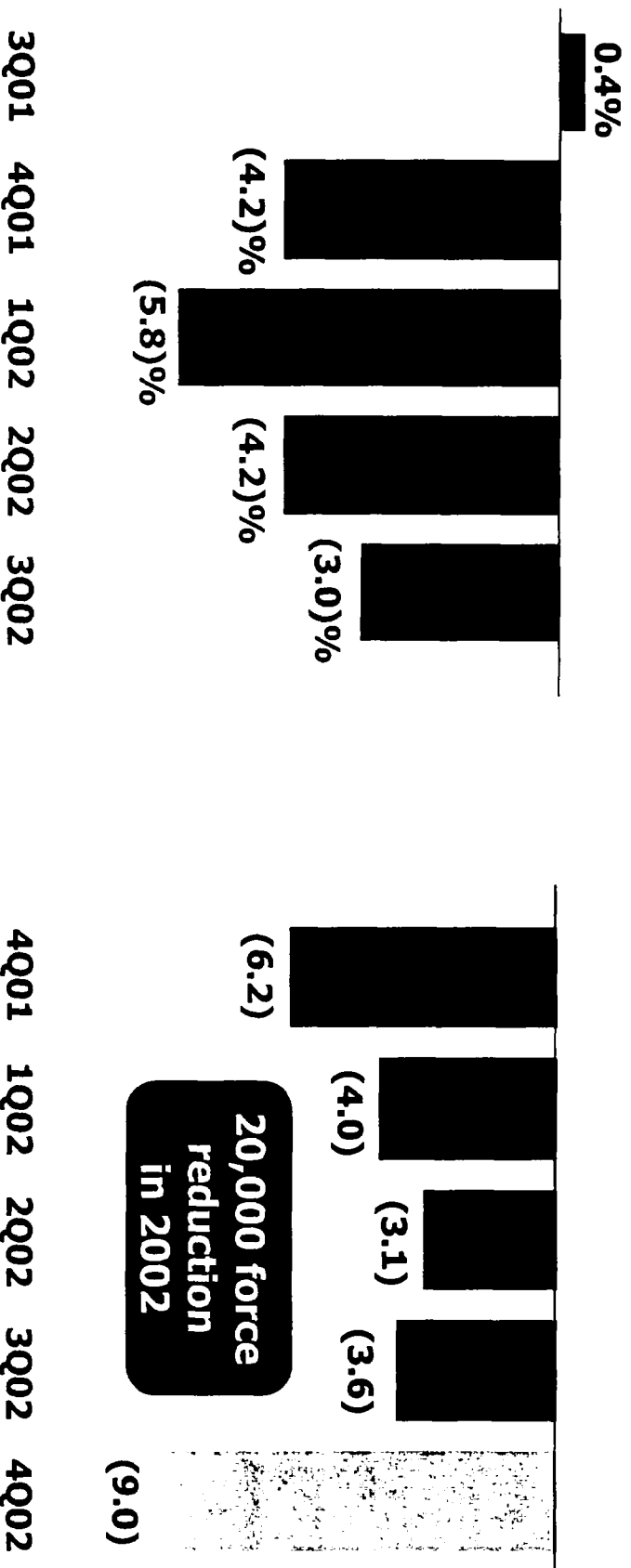
2002 Q 3 Earnings

Operating Expenses

(normalized)

**YOY Cash Operating
Expense Growth**

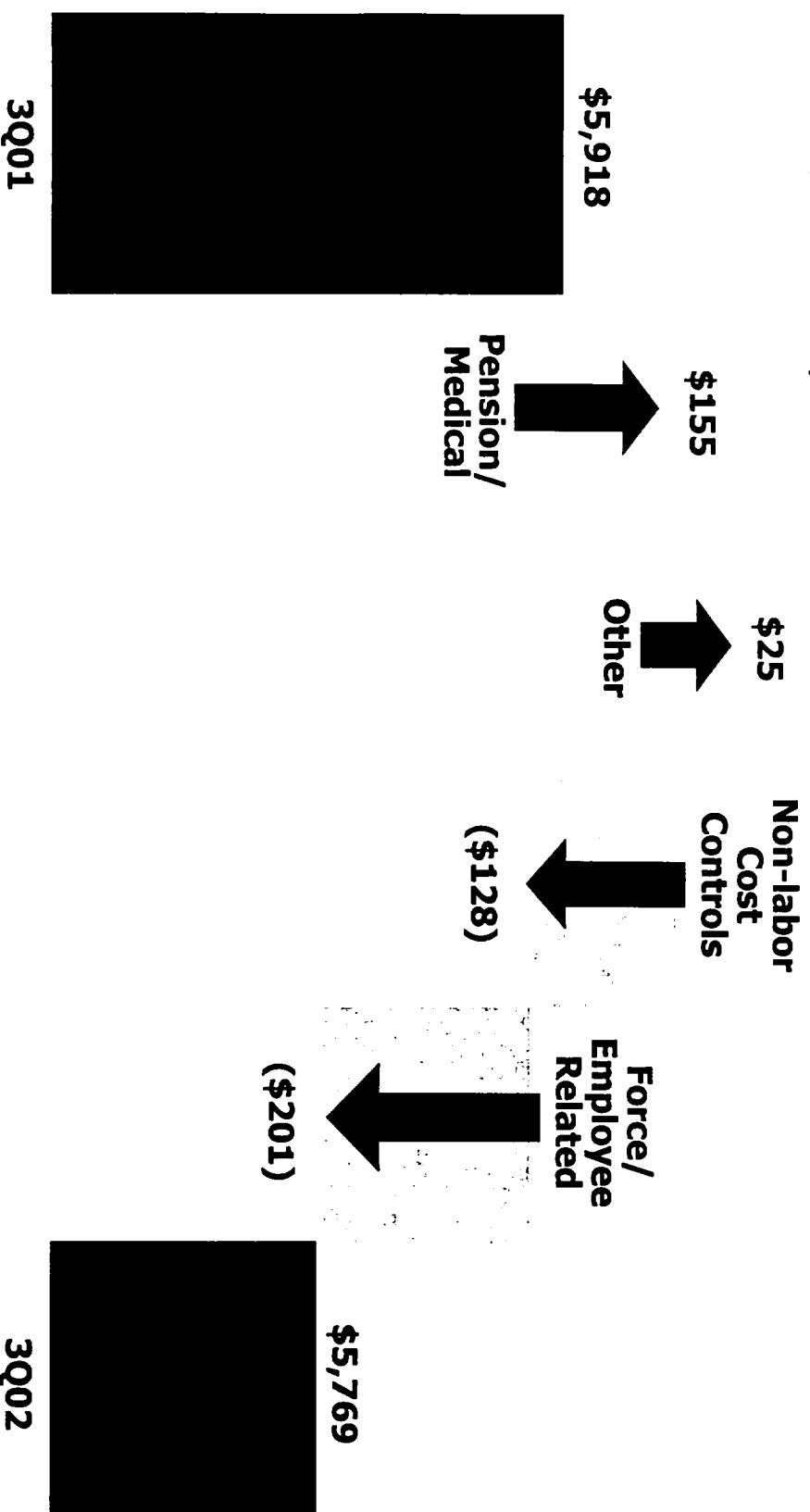
Force Reductions
(in thousands)



2002 Q 3 Earnings

Wireline Expenses

(normalized, in millions)



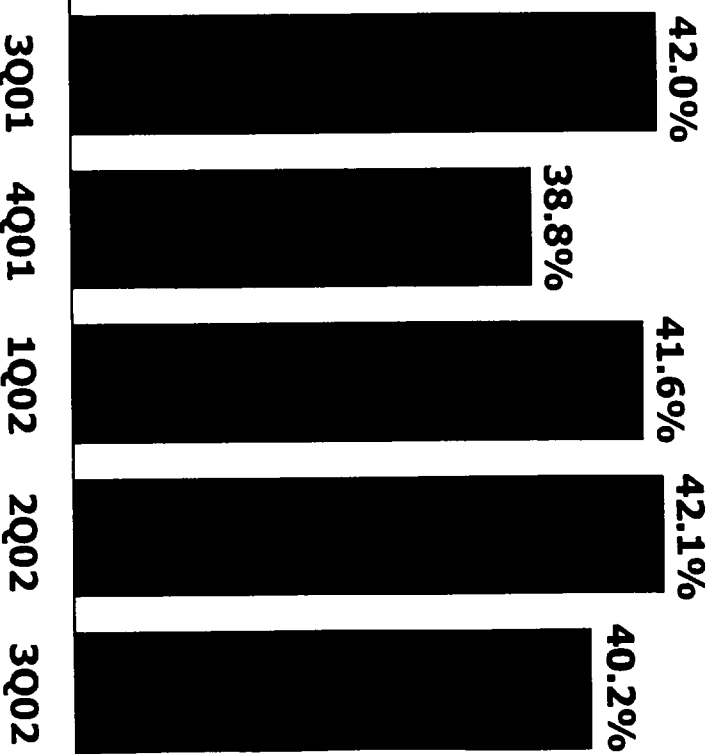
2002 Q 3 Earnings

EBITDA Margins

SBC EBITDA Margins



Wireline EBITDA Margins

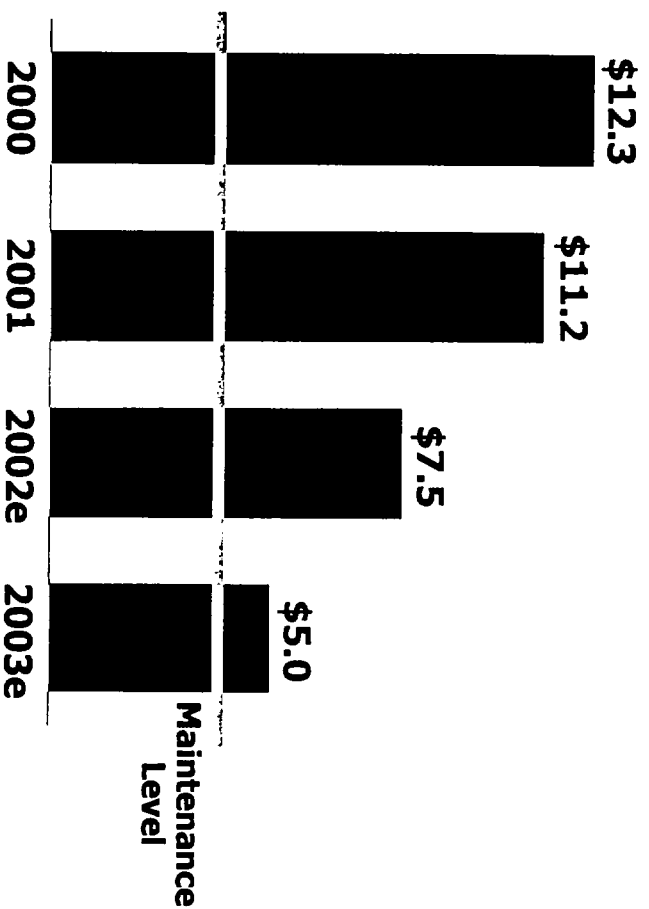


2002 Q 3 Earnings

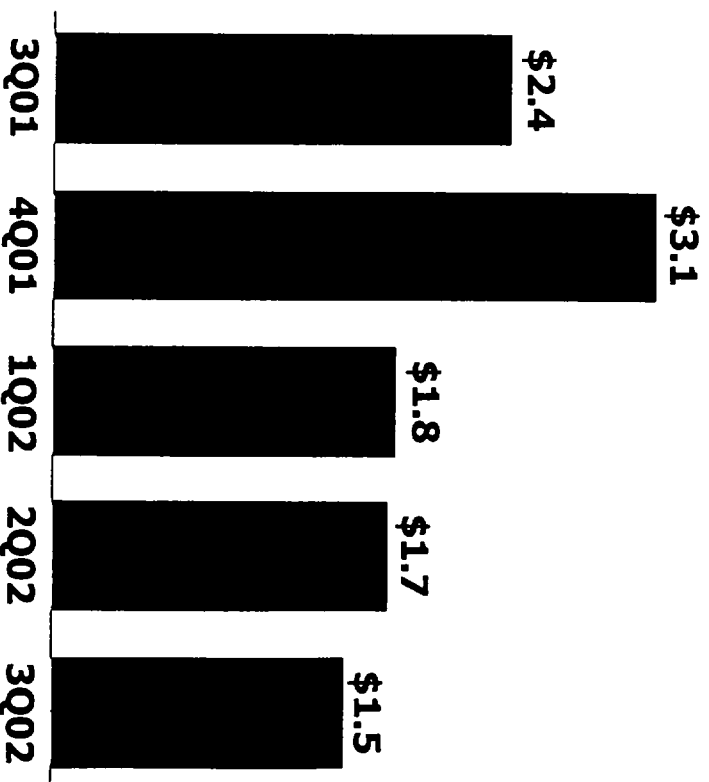
Disciplined Cap Ex

(excludes wireless)

Annual Capital Spend (in billions)



Capital Spend By Quarter (in billions)



2002 Q 3 Earnings

Strong Balance Sheet

Debt Balances Net of Cash*

(in billions)

	1Q02	2Q02	3Q02
	\$26.7	\$25.3	\$23.2
	\$5.7 CP	\$4.5 CP	\$1.9 CP
Other	\$21.0	\$20.8	\$21.3

Over last six

- \$3.5 billion reduction in
- \$3.8 billion commercial of cash ... cut in 3Q02

* Commercial Paper



2002 Q 3 Earnings

Clear Focus

Cost discipline

Sustained productivity improvements

Cap ex

Long-distance expansion

Marketing/bundling initiatives

Full-year EPS target of \$2.26, before one-time items



2002 Q 3 Earnings